

Exhibit 7

Page 1

*** HIGHLY CONFIDENTIAL ***

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

Civil Action No. 3:12-cv-04947-MAS-LHG
-----x

NATIONAL COLLEGIATE ATHLETIC ASSOCIATION,
an unincorporated association; NATIONAL
BASKETBALL ASSOCIATION, a joint venture;
NATIONAL FOOTBALL LEAGUE, an unincorporated
association; NATIONAL HOCKEY LEAGUE, an
unincorporated association; and OFFICE OF
THE COMMISSIONER OF BASEBALL, an
unincorporated association, doing business
as MAJOR LEAGUE BASEBALL,

Plaintiffs,

-against-

CHRISTOPHER J. CHRISTIE, Governor of the
State of New Jersey; DAVID L. REBUCK,
Director of the New Jersey Division of
Gaming Enforcement and Assistant Attorney
General of the State of New Jersey; and
FRANK ZANZUCKI, Executive Director of
the New Jersey Racing Commission,

Defendants.

-----x

200 Park Avenue
New York, New York

November 15, 2012
9:35 a.m.

30(b)(6) DEPOSITION OF
NATIONAL BASKETBALL ASSOCIATION
and its Representative
RICHARD W. BUCHANAN

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7 30(b)(6) DEPOSITION of NATIONAL
8 BASKETBALL ASSOCIATION, and its Representative
9 RICHARD W. BUCHANAN, taken by the Defendants,
10 held at the aforementioned time and place,
11 before Sherri Flagg, a Registered Professional
12 Reporter, Certified LiveNote Reporter, and
13 Notary Public.

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2
3 RICHARD W. BUCHANAN,
4 first duly sworn/affirmed, was
5 examined and testified as follows:

6 EXAMINATION BY

7 MR. HOFFMAN:

8 Q. Good morning, Mr. Buchanan. My
9 name is Matt Hoffman. I represent the
10 Defendants in this action. Can we get your
11 full name for the record, please.

12 A. Sure. Richard William Buchanan.

13 Q. Now, Mr. Buchanan, you work for the
14 National Basketball Association; is that
15 correct?

16 A. Yes.

17 Q. And that is one of the Plaintiffs
18 in this matter?

19 A. Yes.

20 Q. Okay. Today if I refer to the
21 National Basketball Association as the NBA,
22 you'll understand what I mean, I assume?

23 A. Yes.

24 Q. Okay. Mr. Buchanan, what is your
25 current position at the NBA?

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 2 A. Executive vice president and
 3 general counsel.
 4 Q. How long have you been executive
 5 vice president and general counsel of the NBA?
 6 A. I think 12 years.
 7 Q. And did you hold another position
 8 at the NBA before you held the position of
 9 executive vice president and general counsel?
 10 A. Yes. I was senior vice president
 11 and assistant general counsel, I believe.
 12 Q. And how long did you hold those
 13 positions?
 14 A. Approximately five years.
 15 Q. Well, let's start with your current
 16 position at the NBA. Can you generally
 17 describe what your job responsibilities are.
 18 A. I am responsible for the legal
 19 affairs of the NBA. That includes matters
 20 relating to collective bargaining with players
 21 and referees, relates to competition matters,
 22 relates to litigation, legislation, team
 23 matters, arena matters. It's rather broad.
 24 Q. Okay. Out of that list, I just
 25 want to ask you real briefly when you refer to

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 2 position that was created after the Tim
 3 Donaghy incident?
 4 A. It was.
 5 Q. And so if you had it for two years,
 6 were you the very first chief compliance
 7 officer for the NBA?
 8 A. I was not.
 9 Q. Do you know who the first chief
 10 compliance officer was?
 11 A. Yes. Her name was Kim Berger.
 12 Q. And just what year was the chief
 13 compliance officer position initiated?
 14 A. It was either late 2008 or early
 15 2009.
 16 Q. And did you take over for Kim
 17 Berger?
 18 A. I did.
 19 Q. Okay. And when was that?
 20 A. That was 2010.
 21 Q. Okay. In your role as chief
 22 compliance officer, are you also responsible
 23 or do you oversee the enforcement of your
 24 antigambling policies?
 25 A. I do.

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 2 competition matters, what are you referring
 3 to?
 4 A. I was referring to matters relating
 5 to play on the court so playing rules,
 6 disciplinary matters, things of that sort.
 7 Q. Okay. Do your job responsibilities
 8 include gambling education to both players and
 9 other employees?
 10 A. Yes.
 11 Q. And what does your job entail in
 12 that regard?
 13 A. I should mention -- let me back up
 14 one. I should mention that my other job
 15 responsibility is chief compliance officer,
 16 and so underneath either that umbrella or my
 17 umbrella as general counsel, I am responsible
 18 for ensuring that all team and league
 19 employees, including players, referees, staff,
 20 are aware of our antigambling rules.
 21 Q. Okay. And how long have you been
 22 chief compliance officer?
 23 A. Two years.
 24 Q. And I think we'll talk more about
 25 this a little bit later, but was that a

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 2 Q. And --
 3 A. I should say I -- I am responsible.
 4 I want to be -- I want to distinguish between
 5 overseeing and being responsible. There are
 6 others I report to at the NBA who would have
 7 involvement in enforcement of those rules.
 8 Q. And who would you report to in
 9 terms of enforcement?
 10 A. The Commissioner of the NBA.
 11 Q. Do you work at the NBA's
 12 headquarters here in New York?
 13 A. I do.
 14 Q. Do you know who had the job of
 15 executive vice president and general counsel
 16 before you took over 12 years ago?
 17 A. I do.
 18 Q. And who was that?
 19 A. Mr. Jeff Mishkin.
 20 Q. Now, I assume that in your role as
 21 a chief compliance officer, you have a staff
 22 devoted to the education and enforcement of
 23 your antigambling policies; is that correct?
 24 A. I do.
 25 Q. Is there a name that you have for

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2 that particular staff?
3 A. No.
4 Q. Do you have any person who reports
5 directly to you or ultimately reports to you
6 that's primarily devoted to gambling?
7 A. I have -- I have at least one, two
8 people whose jobs include focusing on gambling
9 matters.
10 Q. Okay. And who are those people?
11 A. One of them is Dan Spillane,
12 sitting down at the end of the table. And he
13 is an attorney at the NBA and has a fairly
14 broad portfolio, but one of his
15 responsibilities is to focus on gambling-
16 related matters.
17 There's another gentleman by the
18 name of Steven Angel, who is a member of our
19 basketball operations department but has a
20 title as a deputy compliance officer and
21 focuses on gambling matters also.
22 Q. And do both Mr. Spillane and
23 Mr. Angel report to you on gambling matters?
24 A. Mr. Spillane does and he has a
25 solid line to me. I would say Mr. Angel has a

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
2 sporadic basis. In other words, I was an
3 attorney on staff that was available to
4 function on anything I was assigned by others
5 to do, which would include if we had a
6 gambling issue.
7 Q. So I'm sorry, you said in 1993
8 assistant general counsel; you said you held
9 that position for approximately five years?
10 A. Correct.
11 Q. What was your next position?
12 A. Well, I believe it was the position
13 I mentioned earlier which would have been --
14 let me give you the chronology as best I have
15 it: 1993 assistant general counsel, sometime
16 later vice president and assistant general
17 counsel, probably 1998; senior vice president
18 and assistant general counsel 2000; executive
19 vice president general counsel 2010, added
20 chief compliance officer.
21 Q. Got it. And real briefly, can you
22 give me your educational background.
23 A. Amherst College graduate 1985,
24 Harvard Law School graduate 1988.
25 Q. Have you had any special training

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2 dotted line to me.
3 Q. And when you say dotted line, what
4 do you mean?
5 A. I mean that his supervisor, his
6 direct supervisor is our executive vice
7 president of basketball operations, and so he
8 functionally reports to me on the gambling
9 matters.
10 Q. Mr. Buchanan, when did you first
11 join the NBA?
12 A. 1993.
13 Q. Okay. And what position did you
14 hold at that time?
15 A. Assistant general counsel.
16 Q. How long did you hold that
17 position?
18 A. I'd say five years.
19 Q. And did your job responsibilities
20 as -- you said the assistant general counsel?
21 A. Correct.
22 Q. Did your job responsibilities at
23 that time include the NBA's antigambling
24 policies?
25 A. I would say yes, although on a

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
2 regarding gambling -- or let me rephrase that.
3 Have you had any formal training
4 regarding gambling?
5 A. I'm not sure what you mean.
6 Q. Have you attended any formal
7 classes/seminars regarding gambling?
8 A. I'm just trying to think. I can't
9 recall any.
10 Q. Have you personally conducted any
11 research on gambling?
12 A. Sure.
13 Q. What kind of research?
14 A. Well, I've -- over the course of
15 the time I've been at the NBA, I've read a
16 fair amount of material related to gambling,
17 whether that would be legal cases that have
18 been reported or legislative history or
19 studies that have been conducted or policy
20 papers. I mean, I've been in this area for a
21 while, so I'm sure I've read a fair amount of
22 material on the subject.
23 Q. Have you published any papers
24 yourself on gambling?
25 A. I have not.

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 2 Q. Mr. Buchanan, have you been deposed
 3 before?
 4 A. Yes.
 5 Q. Approximately how many times?
 6 A. Five.
 7 Q. On those occasions were you deposed
 8 as a representative of the NBA?
 9 A. I may have been. I don't -- they
 10 were all in connection with the NBA.
 11 Q. Did any of those depositions
 12 involve the subject of gambling?
 13 A. I don't believe so.
 14 Q. Have you testified in court before?
 15 A. I don't think so. Well, in court,
 16 I mean, I've certainly testified in
 17 arbitration proceedings.
 18 Q. Okay. So you don't recall whether
 19 you've testified in court but you have
 20 testified in arbitration proceedings?
 21 A. Correct.
 22 Q. And approximately how many times?
 23 A. Ten.
 24 Q. And have any of those arbitration
 25 proceedings involved gambling?

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 2 MR. MISHKIN: Object to the form of
 3 the question. You can answer.
 4 A. I understand that I'm supposed to
 5 testify and be knowledgeable about these
 6 topics, and I am.
 7 Q. Now, I'm not looking for any
 8 communications with your counsel. But what
 9 did you do to prepare for today's deposition?
 10 A. I reviewed some documents,
 11 including this document that you just put in
 12 front of me, and the Complaint in this matter
 13 and materials that we produced in this matter.
 14 And I spoke to several individuals who have
 15 information about some of these topics.
 16 Q. Okay. Can you tell me which
 17 individuals you spoke to, again, apart from
 18 counsel.
 19 A. Sure. I spoke to Shirin Malkani,
 20 S-H-I-R-I-N, M-A-L-K-A-N-I, who is an attorney
 21 at the NBA but also in our business affairs
 22 group and has some -- has responsibility for
 23 our fantasy game agreement.
 24 I spoke to Jason Kaufman, who is a
 25 director of market research at the NBA, and I

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 A. No.
 3 Q. Mr. Buchanan, you understand that
 4 you're here today as the NBA's representative
 5 to testify about certain topics?
 6 A. Yes.
 7 Q. I'm going to show you what we're
 8 going to mark as NBA Exhibit 1.
 9 (Exhibit 1: 30(b)(6) Notice of
 10 Deposition, was marked for
 11 identification.)
 12 BY MR. HOFFMAN (continuing):
 13 Q. Mr. Buchanan, have you seen this
 14 document before today?
 15 A. Yes.
 16 Q. Did you review this document in
 17 preparation for today's deposition?
 18 A. I did.
 19 Q. And are you prepared to testify as
 20 the NBA's designee on all of these topics?
 21 A. Yes.
 22 Q. And you understand that this means
 23 you must testify about information known or
 24 reasonably available to the NBA on these five
 25 topics?

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 2 also spoke to -- I spoke to Bill Koenig,
 3 K-O-E-N-I-G, who is our general counsel for
 4 NBA Properties. And I spoke to him about our
 5 rules regarding gambling-related sponsorships
 6 and promotions. And I also spoke to Mr.
 7 Spillane, who, as I mentioned, has
 8 responsibility for gambling-related matters.
 9 Q. Okay. Anyone else?
 10 A. Other than counsel, no.
 11 Q. You did not speak to Commissioner
 12 Stern?
 13 A. Well, I spoke to -- I didn't speak
 14 to Commissioner Stern as a matter of preparing
 15 for this deposition.
 16 MR. MISHKIN: We're going to have
 17 to be a little careful there. I mean,
 18 Mr. Buchanan also does function as
 19 counsel.
 20 Q. I understand. I'm not looking for
 21 any privileged communications.
 22 A. Right.
 23 Q. Other than the 30(b)(6) notice you
 24 have in front of you, the Complaint and
 25 materials that the NBA produced in this

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 2 action, were there any other documents that
 3 you reviewed in preparation for today's
 4 deposition?

5 A. No.

6 Q. Now, Mr. Buchanan, you'll see that
 7 -- you said you looked it up before today.
 8 You'll see a number of those topics refer to
 9 sports gambling. What constitutes sports
 10 gambling in the NBA's view?

11 A. Sports gambling is placing a bet on
 12 the outcome of a professional or amateur
 13 sporting event with the result being that the
 14 bettor either wins money or loses.

15 Q. What about would you consider bets
 16 on supporting events that aren't on the
 17 outcome, that aren't a bet on the outcome of
 18 the game, to be sports gambling? For
 19 example -- let me give you an example. If you
 20 bet on whether a player on a certain team is
 21 going to score more points than a player on
 22 the opposing team, for example, would you
 23 consider that to be sports gambling?

24 A. I'm aware that there are things
 25 called proposition bets, and that is

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 2 bets as part of your definition of sports
 3 gambling?

4 A. Yes.

5 Q. Now, does the NBA oppose legal
 6 spread bets on sports?

7 A. The NBA opposes the -- any
 8 expansion of legalized sports betting in that
 9 way. We understand that spread bets, as you
 10 call them, currently are legal in Nevada, for
 11 example, and we oppose any further spread of
 12 legalizing those kind of bets.

13 Q. Okay. But you're not currently
 14 opposed to legal spread bets in Nevada?

15 A. I'm not really sure what the
 16 question means to be opposed to it in that
 17 context.

18 Q. Does the NBA have the position that
 19 spread bets in Nevada should be illegal versus
 20 legal?

21 MR. MISHKIN: I object to the form
 22 of the question.

23 A. Well, the NBA would prefer that
 24 there be no spread bets in Nevada on NBA
 25 games. If we were -- if we were able to make

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 2 considered sports gambling.

3 Q. Okay. I'll ask you something about
 4 that in just a minute.

5 So you would agree with me that
 6 there are different types of sports bets?

7 A. Yes.

8 Q. Do you know what straight bets or
 9 line bets are?

10 A. I don't.

11 Q. Okay. If I use the term "straight
 12 bets" or "line bets" and I give the following
 13 definition, those are bets made against the
 14 spread or line which is a number assigned by
 15 bookmakers which handicaps one team and favors
 16 another, is that a fair definition in your
 17 knowledge of a line bet or straight bet?

18 A. Well, I understand what you mean to
 19 bet against a spread, so I understand what
 20 that is, yes.

21 Q. If I use the term "spread bets"
 22 then, would that be better?

23 A. That's fine.

24 Q. Okay. And I assume, based on your
 25 earlier definition, you would include spread

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 2 that so, there would be no spread bets
 3 anywhere. But as you know, I'm sure, as part
 4 of the passage of the federal law in 1992,
 5 those bets were permitted to go forward on a
 6 legal basis.

7 Q. Now, I think in your answer you
 8 referred to spread bets on NBA games. What is
 9 the NBA's position on legal spread bets on
 10 non-NBA games in Nevada?

11 A. We don't have a position on betting
 12 on other sports. That's for other sports to
 13 represent. Our core issue is betting on our
 14 games.

15 Q. Earlier you used the term yourself
 16 "proposition bets." So if we use that term
 17 today, would you understand that term to
 18 denote a bet made regarding the occurrence or
 19 nonoccurrence during a game of an event not
 20 directly affecting the game's final outcome?

21 A. I understand a proposition bet to
 22 be a bet that is based on some occurrence
 23 that's part of the game but not necessarily
 24 the actual outcome of who wins and who loses.

25 Q. Okay. So the example I gave

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 2 earlier of betting on whether one player
 3 scores more points than a player on the
 4 opposing team or betting on which team will
 5 score first, those in your mind would be
 6 examples of proposition bets?
 7 A. Yes.
 8 Q. Does the NBA oppose legal
 9 proposition bets on sports?
 10 A. Same answer as before.
 11 Q. Which is you oppose the expansion
 12 of legal proposition bets, correct?
 13 A. Correct. The NBA opposes the
 14 expansion of sports gambling in any of its
 15 forms, whether it's based on a spread, a
 16 proposition bet or of any other kind of sports
 17 gambling beyond what is currently legal in
 18 this country.
 19 Q. But I assume, then, that your
 20 answer would be the same on proposition bets
 21 regarding whether the NBA has a position on
 22 legal proposition bets on non-NBA sports in
 23 Nevada?
 24 A. Correct. We just -- that's -- we
 25 don't have a position there. Our core

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 2 bet requires you to pick multiple games as
 3 opposed to just one.
 4 Q. And does the NBA oppose legal
 5 parlay bets on sports?
 6 A. Same answer as before. We oppose
 7 the expansion of sports gambling in any of its
 8 forms including parlay bet.
 9 Q. Does the NBA oppose legal parlay
 10 bets on NBA games in Canada?
 11 A. Yes, we would oppose the expansion
 12 of that beyond what's legal now.
 13 Q. But, again, you understand that
 14 parlay bets are legal in Canada?
 15 MR. MISHKIN: Object to the form of
 16 the question.
 17 A. Yes. And we -- and you're correct.
 18 And we have -- we have a -- we currently have
 19 a contractual agreement with the province of
 20 Ontario that prohibits that government from
 21 including NBA games in the parlay game that is
 22 authorized there.
 23 Q. Okay. A few more gambling terms
 24 and then we'll move on. Are you familiar with
 25 the term "future wagers"?

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 2 position has to do with betting on our games.
 3 Q. Mr. Buchanan --
 4 A. I should say that I think it goes
 5 without saying that many of the concerns that
 6 we have about betting on our games and the
 7 reasons that we oppose that tend to be the
 8 same ones that other sports organizations have
 9 with regard to betting on their games. But
 10 those are concerns for them to articulate.
 11 Q. Okay. Are you familiar with the
 12 concept of parlays?
 13 A. Yes.
 14 Q. And do you understand that parlays
 15 involve multiple bets that usually reward
 16 successful bettors with a substantially larger
 17 payout?
 18 A. Well, I understand parlays to be
 19 wagers based typically, in the context of
 20 sports gambling, on multiple games as opposed
 21 to a single game. As to the payout, that --
 22 I'm not really familiar with that. I
 23 understood that a -- I've understood that a
 24 parlay bet could return the same amount as a
 25 single game bet; it's simply that the parlay

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 2 A. I'm not.
 3 Q. Okay. If I use the term "future
 4 wagers," I mean that to be a bet that
 5 generally has a long-term or a -- yeah, a
 6 long-term horizon measured in weeks or months.
 7 So, for example, if I bet on who I think is
 8 going to win the NBA championship before the
 9 season starts, if I use the term a future
 10 wager, would you understand that bet to be
 11 something that is -- an occurrence that's
 12 weeks or months in the future?
 13 A. I will for purposes of the
 14 deposition. I understand that you can bet on
 15 who will win the NBA championship and you can
 16 place that bet early.
 17 Q. And, again, same question: Does
 18 the NBA oppose legal future wagers on sports?
 19 A. Same answer as before.
 20 Q. Now, Mr. Buchanan, are you familiar
 21 with the term "odds"?
 22 A. Sure.
 23 Q. What does that term mean to you?
 24 A. Well, it means a factor that is
 25 applied by the person taking the bet that

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 2 could result in additional compensation coming
 3 to the person wagering as a measure of the
 4 likelihood of whatever the outcome is.

5 So in the context of sports, two to
 6 one odds that some team is going to win means
 7 if you place \$10 down, you'll get \$20 if
 8 you're right.

9 Q. Okay. Now, in sports wagering, do
 10 you know if the odds lock at the time you
 11 place a bet? In other words, if you put your
 12 \$10 down and the odds at the time you put your
 13 \$10 down are two to one, do you know if the
 14 odds can change after that point or whether
 15 they're locked at two to one?

16 MR. MISHKIN: Mr. Hoffman, you're
 17 speaking very generally and not -- which
 18 is your prerogative, and not providing a
 19 particular context for, you know, who's
 20 organizing these bets.

21 But with that understanding that
 22 you're speaking very generally and
 23 without a specific context so I object to
 24 the form, the witness can answer the
 25 question.

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 2 betting with a bookie outside of Nevada in the
 3 United States, correct?

4 A. Well, again, I understand that the
 5 same bet that you would place in Nevada for
 6 the Knicks to beat some other team in the
 7 game, if you tried to place that bet in any
 8 other state, it would be illegal.

9 Q. And if I use the term "bookie,"
 10 that typically means someone who is illegally
 11 taking bets as opposed to a legal sportsbook
 12 in a casino. Is that --

13 A. Well, if it -- we can agree to use
 14 terms that are -- make it easier to get
 15 through the questioning, I guess I'm not aware
 16 that -- bookie is short for bookmaker, at
 17 least I thought so; and bookmakers, depending
 18 on where they're located, can either be taking
 19 legal bets or illegal bets.

20 Q. Now, in Nevada there's legal
 21 gambling on NBA games, correct?

22 A. Yes, I believe there is.

23 Q. Does the NBA know how much legal
 24 sports gambling on NBA games occurs in Nevada?

25 A. No.

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 A. I actually don't. I would say that
 3 my assumption is that they do, but I know that
 4 the gambling -- the world of gambling is --
 5 and betting is changing, and so I can't say
 6 for certain whether that's always the case
 7 now.

8 Q. Okay. Well, let me ask you this
 9 way: Do you know if that can be the case?

10 A. I don't.

11 Q. Okay. Mr. Buchanan, in the United
 12 States there's both legal and illegal sports
 13 gambling on sports, correct?

14 A. That's correct.

15 Q. One example of legal sports
 16 gambling would be someone who is over 21
 17 placing a bet at a sportsbook in Las Vegas.
 18 Would you agree with that?

19 A. Well, I would agree that there is
 20 -- you can place bets on sporting events
 21 legally in Nevada. Exactly what the
 22 eligibility requirements are and the amounts
 23 and things of that nature, I'm not familiar.

24 Q. And is it your understanding that
 25 illegal sports gambling would include someone

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 Q. Does the NBA have any estimate of
 3 how much legal sports gambling on NBA games
 4 would occur in New Jersey if New Jersey sports
 5 gambling law is implemented?

6 MR. MISHKIN: I'll object as
 7 hypothetical. But with that objection,
 8 you can answer.

9 A. No.

10 Q. Does the NBA have any estimate of
 11 how much legal sports gambling on NBA games
 12 would occur in the United States, as a whole,
 13 if New Jersey sports gambling law is
 14 implemented?

15 A. I'm sorry, can you just --

16 MR. MISHKIN: Do you want the
 17 question read back?

18 A. Give me the verb.

19 Q. Sure. I'll restate the question,
 20 no problem.

21 A. Thank you.

22 Q. Does the NBA have any estimate of
 23 how much legal sports gambling on NBA games
 24 would occur in the United States, as a whole,
 25 if New Jersey's sports gambling law is

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 implemented?
 3 A. Right, I was looking for the word
 4 "estimate." I -- the only thing I would say
 5 is more. I think it's fair when you ask me
 6 for an estimate, our estimate is it would be
 7 more. If you're asking me for a specific
 8 number, we don't have that.
 9 Q. And what does the NBA base its
 10 contention that there would be more gambling?
 11 A. Based that on -- based that on the
 12 fact that I have read, over the course of
 13 time, the views of a number of people,
 14 including experts, who are of the view that
 15 legalizing gambling will not simply result in
 16 the transference of illegal gambling to legal
 17 gambling, because there are a number of
 18 advantages or perceived advantages to gamblers
 19 from betting illegally. And as a result,
 20 legalizing gambling will inevitably create
 21 additional gamblers so there will be more.
 22 Q. As you sit here today, can you tell
 23 me who -- any of these experts that you read
 24 regarding this?
 25 A. I -- the only one that I really was

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 know whether or not there will be an increase
 3 in gambling overall through the legalization
 4 of gambling?
 5 A. I don't recall ever having read
 6 that.
 7 Q. I think in part of your answer, one
 8 of your earlier answers, you referred to
 9 advantages to gamblers who bet illegally. Can
 10 you tell me, in your view, what those
 11 advantages are?
 12 A. Yeah. One that strikes me as
 13 particularly relevant is the fact that the
 14 winnings, if any, are not taxed. Since
 15 someone is betting illegally, I think it is
 16 fair to assume that they are not going to
 17 report their winnings to the government and so
 18 they won't have to pay income taxes on them.
 19 That's an advantage.
 20 Another advantage is that typically
 21 I understand that illegal bookmakers offer
 22 credit, which is not always offered in Nevada,
 23 for example.
 24 I understand that sometimes the
 25 odds are better from -- in an illegal context

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 sort of refreshed to recall was I recall that
 3 there was such testimony in connection with
 4 the passage of PASPA.
 5 Q. Okay.
 6 A. And I recall that because I looked
 7 at the legislative history in connection with
 8 preparing for the deposition.
 9 Q. Anything outside -- you're
 10 referring to the passage of PASPA in 1992?
 11 A. That's correct.
 12 Q. Okay. Anything other than the
 13 testimony provided in 1992 that you recall
 14 reading?
 15 A. Well, I can't -- I couldn't cite
 16 you a particular article or a particular name,
 17 but I know that I have read that view at
 18 various points in my time at the NBA. As I
 19 testified earlier, I have had the occasion to
 20 read, whether it's news articles or policy
 21 papers or other writings about gambling, and
 22 I've seen that view repeated on numerous
 23 occasions.
 24 Q. Have you ever read any articles
 25 that take the contrary view that they don't

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 2 than they are in Nevada, and then there's also
 3 oftentimes a familiarity or a convenience
 4 factor. If you have someone who's been
 5 betting illegally with his trusted bookie,
 6 it's not clear that he would then want to find
 7 someone else to gamble with.
 8 Q. Okay. Now I'm going to shift a
 9 little bit from focusing on gambling on NBA
 10 games to gambling on all sports, okay?
 11 Does the NBA know how much legal
 12 sports gambling on all sports occurs in
 13 Nevada?
 14 A. The answer generally is no. When
 15 you say do we know, I don't -- I couldn't say
 16 that we know. I believe I have read estimates
 17 from time to time, although I recall those
 18 estimates to be quite -- to be citing a very
 19 broad range.
 20 Q. As you sit here today, do you
 21 recall what those estimates were?
 22 A. I remember them being a fairly
 23 large amount of money, but I don't remember
 24 the specifics.
 25 Q. Okay.

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 A. But it's a lot.
 3 Q. Does the NBA have any studies
 4 regarding how much legal sports gambling
 5 occurs in Nevada?
 6 A. By study, do you mean -- what do
 7 you mean by "study"? That would help me a
 8 little bit.
 9 Q. Has the NBA taken upon itself to do
 10 a formal study or analysis of the amount of
 11 legal sports gambling that occurs in Nevada?
 12 A. No.
 13 Q. Has the NBA hired any other
 14 consultants to do such a study?
 15 A. No.
 16 Q. Does the NBA have any estimate of
 17 how much legal sports gambling would occur in
 18 New Jersey if New Jersey's sports gambling law
 19 is implemented?
 20 A. I'm sorry, did you say estimate
 21 again?
 22 Q. I did.
 23 MR. MISHKIN: I'm going to just --
 24 I won't do this repeatedly but just so
 25 it's clear on the record, talking about

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 games now, okay?
 3 A. Okay.
 4 Q. Does the NBA know how much illegal
 5 sports gambling on NBA games occurs in the
 6 United States?
 7 A. Again, I don't have a specific
 8 number for you. I know that there -- there
 9 are estimates that there is illegal sports
 10 gambling on NBA games and I believe those
 11 estimates are -- they're in the millions.
 12 Q. Okay. Do you know if those
 13 estimates on the amount of illegal sports
 14 gambling on NBA games is smaller or larger
 15 than the amount of legal sports gambling on
 16 NBA games?
 17 A. I believe the estimates are larger.
 18 Q. As you sit here today, do you know
 19 any estimate of how much larger the illegal
 20 market of gambling on NBA games is?
 21 A. I don't recall.
 22 Q. Does the NBA have--again, same
 23 definition--formal studies or analyses? Does
 24 the NBA have any studies regarding how much
 25 illegal sports gambling on NBA games occurs in

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 what might or might not happen if New
 3 Jersey were permitted to violate law is
 4 hypothetical.
 5 But with that objection, which I
 6 will not keep repeating in everyone's
 7 mind, you can answer the question.
 8 A. It's the same answer I gave before.
 9 I would say we think it will be -- I don't
 10 have a specific number, but clearly there will
 11 be more -- there will be more gambling than
 12 there is today. Other than that, I don't have
 13 a particular number for you.
 14 Q. Okay. Same answer, I assume, but
 15 let me ask: Does the NBA have any estimate of
 16 how much legal sports gambling would occur in
 17 the United States, as a whole, if New Jersey's
 18 sports gambling law is implemented?
 19 A. Yes, same answer.
 20 Q. Now I'm going to shift from legal
 21 sports gambling to illegal sports gambling.
 22 Okay?
 23 A. Um-hmm.
 24 Q. And actually I'm going to focus
 25 specifically on illegal sports gambling on NBA

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 the United States?
 3 A. No.
 4 Q. Does the NBA have any estimate of
 5 how much illegal sports gambling on NBA games
 6 would occur in the United States if New Jersey
 7 implements its sports gambling law?
 8 A. No, other than, again, what I said
 9 before about the word "estimate." We would
 10 estimate that the total amount of gambling
 11 that would include both illegal and legal
 12 would be greater than it is today. But I
 13 don't have a specific number with respect to
 14 the illegal portion of that.
 15 Q. Does the NBA know how much illegal
 16 sports gambling on NBA games occurs in New
 17 Jersey?
 18 A. No.
 19 Q. Now I'm going to focus on illegal
 20 sports gambling on all sports, not just
 21 illegal gambling on the NBA.
 22 Does the NBA know how much illegal
 23 sports gambling occurs in the United States?
 24 A. No. The same answer as before,
 25 I've seen these estimates. I couldn't give

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 you the figures. But I don't -- I don't have
 3 a specific number for you.

4 Q. Does the NBA have any studies
 5 regarding how much illegal sports gambling
 6 occurs in the United States?

7 A. No.

8 Q. Does the NBA have any estimate of
 9 how much illegal sports gambling would occur
 10 in the United States if New Jersey implements
 11 its sports gambling law?

12 A. Again, same answer as before. It's
 13 -- there would, overall, be more gambling but
 14 there would be -- the illegal portion of it, I
 15 could not -- I couldn't tell you how much.

16 Q. Does the NBA know how much illegal
 17 sports gambling occurs in New Jersey?

18 A. No.

19 Q. Does the NBA have any studies
 20 regarding how much illegal sports gambling
 21 occurs in New Jersey?

22 A. No.

23 Q. Does the NBA have any estimate of
 24 how much illegal sports gambling would occur
 25 in New Jersey if New Jersey implemented its

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 context I'm assuming you're asking it, it
 3 means the legal entitlement to bring a
 4 lawsuit.

5 Q. Do you understand that, to satisfy
 6 standing requirements, the NBA is required to
 7 show that it has been harmed or would be
 8 harmed by the New Jersey sports gambling law?

9 MR. MISHKIN: Object to the form of
 10 the question. You can answer.

11 A. Well, I'm not sure, to be honest
 12 with you. I think this is a legal issue
 13 that's subject to some dispute in this case.
 14 And so that's the answer.

15 Q. Okay, fair enough.

16 Mr. Buchanan, what harm does the
 17 NBA contend it will suffer as a result of the
 18 New Jersey sports gambling law?

19 A. Well, the principal issue for the
 20 NBA is that legalizing sports gambling would
 21 have the effect of damaging the relationship
 22 that we have with our fans. Our fans
 23 currently come to games and we hope they come
 24 to games to root for the team of their choice,
 25 to support the home team; or if they happen to

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 sports gambling law?
 3 A. Again, the same answer. That
 4 particular question is interesting. I'm not
 5 sure I entirely understand it. If you
 6 legalize sports gambling in New Jersey, how
 7 much illegal sports gambling would go on. I'm
 8 not even sure I understand.

9 So that would be, I guess, just
 10 people who don't meet whatever eligibility
 11 requirements would exist in the hypothetical
 12 world or don't report or don't go to
 13 authorized places or something.

14 Q. Do you know whether or not there is
 15 -- currently in the state of Nevada, whether
 16 or not illegal sports gambling occurs despite
 17 the fact that it's legal in Nevada to gamble
 18 on sports?

19 A. I don't know.

20 Q. Okay. Mr. Buchanan, do you know
 21 what standing is?

22 A. I do.

23 Q. Can you tell me what that means to
 24 you?

25 A. In the legal context and in the

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 be a fan of some away team, if they're a
 3 displaced fan, to support that team and to do
 4 that on the merits of the outcome of the game.
 5 Legalizing sports gambling in New
 6 Jersey or expanding sports gambling beyond its
 7 current state in this country, expanding
 8 legalized sports gambling beyond its current
 9 state in this country would have the effect of
 10 damaging that relationship because more fans
 11 would be rooting for the outcome of their bet
 12 as opposed to the outcome of the game. And
 13 that would -- that would change the nature of
 14 our business, it would change the nature of
 15 what we're trying to do with our fans and
 16 would damage our brand, our goodwill, and harm
 17 us irreparably in a way that I'm not sure we
 18 could come back from.

19 And that's the reason that we
 20 worked so hard to get the 1992 law passed and
 21 it's the reason that we have opposed the
 22 expansion of sports gambling for as long as we
 23 have.

24 I would say, in addition, that that
 25 last point that I mentioned, the fact that we

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 2 have devoted a substantial amount of time,
 3 effort and money to not allowing sports
 4 gambling in this country to expand legally
 5 beyond Nevada, that all of those efforts would
 6 be undermined; and if New Jersey were allowed
 7 to have legalized sports betting--
 8 notwithstanding the law, in other words--we
 9 would be harmed because all of this effort and
 10 expense that we went to would be thrown out
 11 the window. So on that basis, too, there
 12 would be harm to the NBA from expanding sports
 13 gambling to New Jersey.

14 And another point that I considered
 15 as I thought about this issue was we are a
 16 league that tends to skew a little younger in
 17 terms of our demographic than some of the
 18 other sports leagues. We have a particular
 19 relevance with young fans. And the studies
 20 that I've read over the course of time about
 21 the effect of gambling on young people make us
 22 particularly concerned about the impact of
 23 gambling on the NBA.

24 Q. Okay. Other than the harms you
 25 just articulated, any other harm that the NBA

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 of the question. Do you need it read
 3 back? I just want to read it.
 4 (Examining document.)
 5 MR. MISHKIN: Do you have the
 6 question in mind?

7 A. I do but let me ask so I make sure
 8 I have it right. The question was whether
 9 gambling causes I think you said participants
 10 --but by that you mean players--to become
 11 involved with -- I've forgotten the last
 12 thing.

13 Q. In either match-fixing or point-
 14 shaving?

15 A. Match-fixing or point-shaving.
 16 Well, it's sort of interesting, I guess, the
 17 way you phrased it. I mean, I don't know why
 18 anyone would become involved in match-fixing
 19 or point-shaving if there wasn't gambling.

20 Q. Okay.

21 A. So I -- there wouldn't be an
 22 advantage to doing it.

23 Q. Can you define what game-fixing
 24 means to you?

25 A. Yeah. It means acting in a game in

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 contends it will suffer as a result of New
 3 Jersey's sports gambling law?
 4 A. Well, certainly if I didn't -- I
 5 probably should have started by saying that
 6 whatever is in the Complaint obviously is
 7 harms that we are contending would occur here.
 8 But the ones that I articulated are the ones
 9 that I am primarily focused on.

10 Q. Any other harms, as you sit here
 11 today, that you contend the NBA will suffer as
 12 a result of New Jersey's sports gambling law,
 13 other than what you just testified to and
 14 whatever is in the Complaint?

15 A. Not that I can think of at the
 16 moment. I suspect as we discuss this, if you
 17 have further questions about it, it may come
 18 that those harms are articulated in a slightly
 19 different way. But I think those are the
 20 fundamental ones that I've identified.

21 Q. Okay. Does the NBA contend that
 22 sports gambling causes participants in the NBA
 23 to become involved in match-fixing or point-
 24 shaving?

25 MR. MISHKIN: I object to the form

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 a way that is -- that causes the game to be
 3 decided other than on its merits. That's sort
 4 of a backwards way of defining it, but it
 5 essentially means that you're not -- you're
 6 not -- you're conducting yourself in the game,
 7 if you're a player, with some goal in mind
 8 other than winning the game. And in this
 9 context, it usually means to have the game
 10 decided in a way that's favorable for some
 11 betting interest.

12 Q. Is it the NBA's contention in this
 13 case that if sports gambling is implemented in
 14 New Jersey, this would increase the incidence
 15 of game-fixing in the NBA?

16 A. Well, the NBA's primary concern in
 17 this case is the one that I articulated at the
 18 top in response to the first question you
 19 asked me, which is that our primary concern
 20 about gambling, if gambling were to be
 21 legalized in New Jersey, is that we would find
 22 ourselves with many more point spread fans and
 23 that would damage our business.

24 There is -- with additional
 25 gambling on our games which we believe would

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 be the result of legalized gambling in New
 3 Jersey, there is certainly more of a chance
 4 for the influence of gambling to result in
 5 other kinds of conduct like actions in the
 6 nature of game-fixing.

7 Q. And what is the NBA's basis for
 8 that contention?

9 A. Common sense.

10 Q. Anything else?

11 A. Well, I guess I should expand.
 12 Common sense as informed by experience in the
 13 industry over the course of years. The -- as
 14 I said earlier, it -- I'm not aware that
 15 game-fixing -- I've never seen game-fixing
 16 occur in the absence of gambling. And when I
 17 say I've never seen, what I mean by that is I
 18 certainly am familiar with game-fixing
 19 scandals that have occurred in other sports.
 20 I followed those incidents when they occur,
 21 and they always occur in the context of
 22 gambling.

23 And so if there's more gambling, it
 24 stands to reason that there's at least the
 25 possibility that you would have a greater

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 Q. Okay. Well, let me ask it this
 3 way. I think you said you've been in the NBA
 4 since 1993, correct?

5 A. That's correct.

6 Q. During your time at the NBA, are
 7 you aware of any confirmed incident of game-
 8 fixing in the NBA?

9 A. I am not.

10 Q. Okay. I'm going to introduce what
 11 we're going to mark as NBA Exhibit 2, which is
 12 something I think you'll probably be familiar
 13 with. It's the Pedowitz report.

14 (Exhibit 2: Pedowitz report 10/1/08
 15 (#PLAINTIFFS' 00003354-486), was marked
 16 for identification.)

17 BY MR. HOFFMAN (continuing):

18 Q. Mr. Buchanan, have you seen this
 19 report prior to today?

20 A. I have.

21 Q. Do you know when the last time you
 22 saw this report was?

23 A. Well, I believe I at least flipped
 24 through it in preparation for the deposition
 25 because it was something that we produced.

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 chance of game-fixing.

3 Q. In the game-fixing incidents you
 4 just referred to that you've learned about
 5 over the years, do you know if any of those
 6 involved legalized gambling as opposed to
 7 illegal sports gambling?

8 A. I don't know.

9 Q. Does the NBA know how much
 10 game-fixing on NBA games occurs in the United
 11 States?

12 A. Well, I think the answer would be
 13 that we know there is none because this is an
 14 area that we police and pay some attention to;
 15 and as a result, we are reasonably confident
 16 that there is no game-fixing in the NBA.

17 Q. So as we sit here today, the NBA is
 18 not aware of a confirmed incident of game-
 19 fixing in its history. Is that accurate?

20 A. I wish I could say I was an
 21 encyclopedia on this, but we've been around
 22 for 60 years and there was a number of those
 23 years before I came to the NBA and so I
 24 wouldn't want to say that definitively. But
 25 as I sit here today, I couldn't cite you one.

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 Q. Okay. And can you briefly describe
 3 what this report is?

4 A. Yes. It's an independent review
 5 performed by Larry Pedowitz and the Wachtell
 6 Lipton firm relating to an incident in 2007 in
 7 which NBA referee, Tim Donaghy, was found by
 8 the FBI and ultimately the U.S. Attorney's
 9 Office to have engaged in illegal gambling on
 10 NBA games and sharing of information about NBA
 11 games to gamblers. And it is also a forward-
 12 looking risk review of our officiating program
 13 and gambling rules relating to that.

14 Q. Was this report commissioned by the
 15 NBA?

16 A. It was.

17 Q. If I could have you turn to
 18 Executive Summary 2, it's marked ES 2. The
 19 Bates number is Plaintiffs' 00003358.

20 A. I have ES at 59.

21 Q. I'm sorry, it's 59, my mistake.

22 A. Got it.

23 Q. And you'll see at the bottom of the
 24 page, there's a section called Factual
 25 Findings and then number 1 says: "Gambling or

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 misuse of confidential information by other
 3 referees." And I just want to direct you to
 4 that first sentence following that heading
 5 which states:

6 "We have discovered no information
 7 suggesting that any NBA referee other
 8 than Tim Donaghy has bet on NBA games or
 9 leaked confidential NBA information to
 10 gamblers."

11 Mr. Buchanan, do you know if that
 12 statement still holds true today?

13 A. Well, just the way you've asked the
 14 question, the statement is that Larry Pedowitz
 15 has discovered no information suggesting --

16 Q. Let me rephrase the question, then.
 17 To date, has the NBA discovered any
 18 information suggesting that any NBA referee,
 19 other than Tim Donaghy, has bet on NBA games
 20 or leaked confidential NBA information to
 21 gamblers?

22 A. Since this report was issued, we
 23 have no information that any other -- any
 24 referee has gambled on games or leaked
 25 confidential information to gamblers.

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 A. Again, you're -- well, the question
 3 you asked is -- and the way you asked it is
 4 focused on Mr. Donaghy. And I don't have any
 5 information, since this review, that would
 6 contradict the Government's conclusion about
 7 Mr. Donaghy.

8 Q. Okay. So let me rephrase it
 9 another way. In other words, as we sit here
 10 today, does the NBA have any evidence that
 11 Mr. Donaghy ever intentionally made a
 12 particular ruling during a game in order to
 13 increase the likelihood that his gambling pick
 14 would be correct?

15 A. We have no evidence, as stated
 16 here, that -- as of today, that contradicts
 17 the Government's conclusion in that regard.

18 Q. Okay. Could you please turn to
 19 Executive Summary 5 which ends in the Bates
 20 number 3362.

21 A. Okay.

22 Q. And you'll see at the bottom of the
 23 page, the last full paragraph, one of the
 24 recommendations made in this report was the
 25 hiring of a full-time compliance officer who

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 Q. Okay. If you could turn the page
 3 to ES 3 which has the Bates number that ends
 4 in 3360.

5 A. Yes.

6 Q. Okay. And I want to direct your
 7 attention to the middle of the page under the
 8 paragraph with the heading 2, Review of
 9 Donaghy Games. And the statement I wanted to
 10 point you to is the one that says that:

11 "Donaghy has denied intentionally
 12 making calls designed to manipulate games
 13 and the Government has said that it found
 14 'no evidence that Donaghy ever
 15 intentionally made a particular ruling
 16 during a game in order to increase the
 17 likelihood that his gambling pick would
 18 be correct.' Based on our review and
 19 with the information we have available,
 20 we are unable to contradict the
 21 Government's conclusion."

22 Similar question is: Up to the
 23 present day, has the NBA acquired any other
 24 information that would contradict the
 25 Government's conclusion in this sentence?

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 will be responsible for assuring enforcement
 3 by appropriate personnel of the League's
 4 compliance policies and procedures and
 5 overseeing the League's antigambling efforts.

6 And I think we covered this
 7 earlier, but, Mr. Buchanan, you are currently
 8 the NBA's compliance officer, correct?

9 A. I am.

10 [HIGHLY CONFIDENTIAL PORTION
 11 FOLLOWING:]

12

13

14

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 [HIGHLY CONFIDENTIAL:]
 3 BY MR. HOFFMAN (continuing):
 4 Q. Okay. Have there been any
 5 violations of the NBA's antigambling policies
 6 and procedures since the Donaghy incident?
 7 MR. MISHKIN: I don't know the
 8 answer, but we can designate the record
 9 as "Highly Confidential" if there's
 10 anything that would necessitate such a
 11 designation. So, you know, for the
 12 moment let me designate this response,
 13 whatever it's going to be, as highly
 14 confidential. We can withdraw it if
 15 there's no reason to keep it highly
 16 confidential.
 17 A. Yes.
 18 Q. How many incidents -- how many
 19 violations of the NBA's antigambling policies
 20 and procedures have occurred since the Donaghy
 21 incident?
 22 A. I want to say three, but I may not
 23 -- it's in that range.
 24 Q. Okay. Do these incidents involve
 25 players, referees, both?

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 we find that there was game-fixing, which is
 3 consistent with what I testified to earlier,
 4 that I'm not aware of any fixing of NBA games.
 5 Q. Okay. Did any of these incidents
 6 involve -- you said they involved team staff.
 7 Did any of these incidents involve team staff
 8 gambling on games of the team they were
 9 employed with?
 10 A. Yeah.
 11 Q. How many of those incidents, if you
 12 recall, involved --
 13 A. At least one, at least one.
 14 MR. HOFFMAN: Let's go off the
 15 record real quick.
 16 (A discussion was held off the
 17 record.)
 18 BY MR. HOFFMAN (continuing):
 19 Q. I just have a couple more questions
 20 related to the three incidents of gambling on
 21 NBA games that you referred to before the
 22 break.
 23 Do you know where the bets were
 24 placed for those three incidents?
 25 MR. MISHKIN: Object to the form of

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 A. Neither. They involve team staff.
 3 Q. Okay. Do any of these incidents
 4 involve allegations of game-fixing or point-
 5 shaving? Well, actually let me withdraw the
 6 question. Obviously it wouldn't involve
 7 point-shaving if no player's involved, I
 8 assume.
 9 Do any of these incidents involve
 10 the sharing of confidential information that
 11 could contribute to game-fixing?
 12 A. Well, these incidents involve --
 13 MR. MISHKIN: I'm going to object
 14 to the form of that question I think for
 15 obvious reasons. But I object to the
 16 form.
 17 A. These incidents involved
 18 circumstances in which team personnel were
 19 found to be gambling on NBA games. And in
 20 that context, it is always a concern that they
 21 either have inside information or are
 22 disclosing inside information which could
 23 potentially lead to some kind of fixing of the
 24 games.
 25 In none of these circumstances did

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 the question. Where? What sense?
 3 Q. Let me rephrase.
 4 Do you know with whom those bets
 5 were placed?
 6 A. Well, I guess I'll answer it this
 7 way: Two of the incidents I referred to
 8 involve placing bets and I don't know
 9 specifically or I don't remember where those
 10 bets were placed. One of the incidents
 11 involved taking bets.
 12 Q. Okay. So the two incidents that
 13 involved placing bets, you say you don't
 14 remember with whom those bets were placed. Do
 15 you know whether those bets were placed
 16 legally or illegally?
 17 A. I'm reasonably certain they were
 18 placed illegally.
 19 Q. Okay. And the incident taking bets
 20 obviously would be illegal?
 21 A. Correct.
 22 Q. So, again, just to confirm, all
 23 three of the incidents we've been talking
 24 about all involved illegal sports gambling?
 25 A. Right. Although one of the three,

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
2 my recollection is that the amounts were small
3 enough that one could make arguments as to
4 whether it rose to the level of illegal
5 gambling. In other words, that's -- let me
6 clarify that.

7 Any gambling in NBA games, no
8 matter what the amount, is illegal other than
9 in connection with Nevada. But the point I'm
10 making is that one of the matters looked like
11 it may have involved a friendly wager between
12 colleagues in an office so...

13 Q. Okay.

14 A. Technically illegal.

15 Q. Okay. Let's go ahead and turn
16 to --

17 MR. MISHKIN: Mr. Hoffman, can we
18 -- are we off this topic?

19 MR. HOFFMAN: Do you want to go off
20 the record for a second?

21 (A discussion was held off the
22 record.)

23 BY MR. HOFFMAN (continuing):

24 Q. For these three incidents we've
25 been talking about, were any sanctions

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
2 Confidential" designation at this point.
3 [END OF HIGHLY CONFIDENTIAL PORTION.]

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
2 imposed?

3 A. Yes.

4 Q. And what were those?

5 A. In one incident there was -- the
6 employee at issue was terminated and
7 disqualified from further association with the
8 NBA or its teams. And the other incident the
9 other employees were terminated, and in the
10 third no action was taken.

11 Q. And when we say the third no action
12 was taken, which incident was that? Was that
13 the incident of taking bets, or was that the
14 incident you referred to where the monetary
15 value was relatively low?

16 A. It was the incident where it
17 appeared to be -- it ended up being a wager
18 between colleagues.

19 Q. Okay.

20 MR. HOFFMAN: We can go off the
21 record now.

22 (A discussion was held off the
23 record.)

24 MR. MISHKIN: Let's just note on
25 the record that we can end the "Highly

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN

2 BY MR. HOFFMAN (continuing):
3 Q. Mr. Buchanan, if I could have you
4 turn to the same document which is NBA
5 Exhibit 2, to page Executive Summary 6. It
6 ends in the Bates number 3363.

7 A. Yeah.

8 Q. And I want to direct your attention
9 to the last full paragraph on that page. And
10 I'm pointing to the last full paragraph on
11 that page that starts with "The League."

12 A. Yes.

13 Q. So that paragraph says:

14 "The League has arranged to obtain
15 information on a regular basis from
16 individuals and entities involved in the
17 gambling business about unusual movements
18 in the betting lines and rumors
19 concerning confidential NBA information
20 such as player injuries and referee
21 assignments. Flagging games for the
22 League to investigate may help the League
23 detect gambling or misuse of confidential
24 information."

25 Mr. Buchanan, do you know who are

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 the individuals and entities involved in the
 3 gambling business that are referred to in this
 4 paragraph?

5 A. Yes.

6 Q. And who are those individuals and
 7 entities?

8 A. One is Las Vegas Sports
 9 Consultants, which is an entity in Las Vegas
 10 that supplies betting lines to many, if not
 11 all, of the casinos that have sportsbooks in
 12 Nevada. And another is a gentleman named Mark
 13 Goldman who formerly or currently--I don't
 14 recall which--was in charge of the -- running
 15 the sportsbook at one of the major casinos in
 16 Las Vegas, I believe Caesars.

17 Q. Any other individuals or entities
 18 referred to in this paragraph that you haven't
 19 already mentioned?

20 A. No.

21 Q. In the first sentence, it states:
 22 "The League has arranged to obtain information
 23 on a regular basis." How has the League
 24 arranged to obtain information on a regular
 25 basis from those entities?

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 players or teams, and it may help us uncover
 3 circumstances where information was supplied
 4 to gambling interests.

5 If there is an unusual movement in
 6 the line and we can match that up to some
 7 issue with the team, whether that might be an
 8 injury, whether it might be some other
 9 circumstance that hadn't been publicly
 10 disclosed, we would then have a basis to
 11 believe that someone was tipping information
 12 which might then lead us to investigate and
 13 find a violation of our rules.

14 Q. Okay. To date, has the Las Vegas
 15 Sports Consultants and Mr. Goldman helped the
 16 League detect gambling or misuse of
 17 confidential information?

18 A. Well, I would say that we haven't
 19 -- we haven't had investigations that have
 20 resulted from information that they have
 21 supplied to us as of yet. But obviously we
 22 agree with this recommendation in the Pedowitz
 23 report. We agree that information of that
 24 kind could be helpful in certain
 25 circumstances. It has yet to be but it could

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 A. With respect to LVSC, which is Las
 3 Vegas Sports Consultants, we obtain the lines
 4 that are transmitted to the sportsbooks
 5 directly from them so that we can -- and we
 6 receive that on a frequent basis, and it
 7 allows us to determine if there is any unusual
 8 movement in that -- in those lines.

9 Q. The question may be fairly obvious
 10 but both the Las Vegas Sports Consultants and
 11 Mr. Goldman, they're both involved in legal
 12 gambling in Las Vegas, correct?

13 A. That's correct.

14 Q. The last sentence -- well, let me
 15 ask this: Do you agree with the statement
 16 that flagging games for the League to
 17 investigate may help the League detect
 18 gambling or misuse of confidential
 19 information?

20 A. Yes, it may. That's the reason
 21 that we -- that we have these relationships.
 22 One of our rules that we impose on staff,
 23 players, referees, et cetera, is no tipping.
 24 Tipping is the misuse of confidential
 25 information for gambling purposes about

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 be.

3 Q. So in other words, the Las Vegas
 4 Sports Consultants and Mr. Goldman have
 5 provided the NBA information but the NBA has
 6 not -- that has not resulted in the NBA taking
 7 any disciplinary action or determining that
 8 there have been any violations of the NBA's
 9 antigambling policies?

10 A. Correct. But broader I think would
 11 be it hasn't yet resulted in us identifying an
 12 incident that even led to an investigation,
 13 per se.

14 Q. Okay. And now if you could turn to
 15 it's page 7. We're going to move off the
 16 executive summary and go to page 7, which ends
 17 in Bates number 3372.

18 A. I'm sorry, say it again.

19 MR. MISHKIN: We're past executive
 20 summary.

21 A. Thank you, sorry.

22 Q. Sure. And I'm going to direct your
 23 attention to the first full paragraph at the
 24 top of the page where it says:

25 "Finally, we spoke to various

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 experts. For example, we consulted with
 3 gambling experts and representatives of
 4 Las Vegas sportsbooks."

5 I just want to confirm in that
 6 sense, again, is that referring only to the
 7 Las Vegas Sports Consultants and Mr. Goldman?

8 A. I don't -- I don't know. The
 9 Pedowitz report and the investigation
 10 conducted by Mr. Pedowitz was independent of
 11 the NBA. And while I was certainly involved
 12 in this matter and the investigation
 13 generally, it may have been that Larry or his
 14 colleagues spoke to others other than ones
 15 that I've mentioned that I'm not aware of.

16 Q. Okay. Do you know why Mr. Pedowitz
 17 spoke to gambling experts and representatives
 18 of Las Vegas sportsbooks as part of his
 19 investigation of the Donaghy incident?

20 A. I would be speculating. But within
 21 the realm of that, I think he simply wanted to
 22 get educated about this area of sports
 23 gambling as part of his report and review.

24 Q. Could you please turn to page 27,
 25 which is Bates number 3392 of NBA Exhibit 2.

1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 sportsbooks and have regular contacts
 3 with bookies in major cities throughout
 4 the United States. They have told us
 5 they uncovered no information suggesting
 6 that any other referees have bet on NBA
 7 games or have provided confidential
 8 information to individuals betting on NBA
 9 games."

10 Do you know who the gambling
 11 consultants in Las Vegas referenced in this
 12 paragraph refers to?

13 A. I don't exhaustively. I believe
 14 that they included LVSC and Mark Goldman, but
 15 they may have included others as well.

16 Q. If you could turn to page 100 now
 17 and that is Bates number 3465 of NBA
 18 Exhibit 2.

19 A. Okay.

20 Q. And I want to direct your attention
 21 to Section XII (a), Gambling and Confidential
 22 Information Recommendations.

23 A. Yes.

24 Q. And the first two sentences there
 25 state:

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2 A. Yes.

3 Q. And I want to direct your attention
 4 to the last full paragraph on the page which
 5 states:

6 "Second, the NBA security
 7 department which has numerous contacts in
 8 law enforcement through Bernie Tolbert,
 9 the head of security and a former FBI
 10 agent, has never received any information
 11 suggesting that other referees have
 12 gambled on NBA games or provided
 13 confidential information to gamblers."

14 Do you know if, as of the present
 15 date, whether the NBA security department has
 16 ever received any information suggesting that
 17 other referees have gambled on NBA games or
 18 provided confidential information to gamblers?

19 A. It has not.

20 Q. If you'd turn to page 28 which is
 21 Bates numbers 3393 of NBA Exhibit 2. I direct
 22 your attention to the paragraph that starts
 23 with:

24 "Fifth, we spoke to gambling
 25 consultants in Las Vegas who run major

1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 "Sports gambling is big business.
 3 In 2006 the Nevada State Gambling Control
 4 Board reported 2.4 billion in legal
 5 sports wagering, 635.4 million of that
 6 total was bet on basketball (college and
 7 NBA combined)."

8 Mr. Buchanan, would you agree with
 9 that estimate?

10 A. I don't have an independent basis
 11 for agreeing or disagreeing. I certainly
 12 don't disagree. And this was one of the
 13 references that I mentioned earlier that I
 14 have recalled seeing numbers in the past; I
 15 just didn't recall what they were.

16 Q. And if you could turn the page, I
 17 think we can skip the next couple sentences,
 18 and then the first full paragraph on page 101
 19 which is Bates number 3466 states:

20 "By some estimates, total volume of
 21 sports betting in the United States is
 22 325 to 400 billion with less than 1% of
 23 this betting taking place legally in
 24 Nevada."

25 Any reason for you to disagree with

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 those estimates?
 3 A. Well, again, this is -- I guess
 4 this is Larry reporting on -- by some
 5 estimates. So I don't have any reason to
 6 agree or disagree.

7 Q. Would you agree that a relatively
 8 small percentage of the total volume of sports
 9 betting in the United States takes place
 10 legally in Nevada?

11 MR. MISHKIN: I object to the form
 12 of the question that it lacks a
 13 foundation.

14 A. I agree that that's what this
 15 sentence says and, as I said, I don't have an
 16 independent basis to agree or disagree.

17 Q. Do you have an independent basis
 18 for believing that the illegal sports gambling
 19 market in the United States is larger than the
 20 legal sports gambling market in the United
 21 States?

22 A. I certainly would assume it is. I
 23 just -- I don't -- as I said, you asked me
 24 earlier whether we had conducted our own
 25 independent studies or research or anything of

1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 paragraph, there's a parenthetical that
 3 states:
 4 "We note that this system has been
 5 working properly as certain games were
 6 brought to the League's attention during
 7 the 2007-2008 season. After further
 8 review, the League determined that
 9 nothing improper had occurred."

10 Does that sentence, does that
 11 reflect your earlier testimony about the Las
 12 Vegas Sports Consultants and Mr. Goldman
 13 providing information to the NBA about betting
 14 lines but that the League determined that
 15 nothing improper had occurred?

16 A. Yes. My recollection is that we --
 17 they had -- on one or more occasions, they had
 18 told us that there was an unusual movement in
 19 a line, and then we looked into it in terms of
 20 the timing of when information about an injury
 21 or the team had been publicly disclosed and
 22 determined that there was nothing unusual
 23 about the line movement.

24 Q. And, again, this paragraph refers
 25 to obtaining information on a regular basis.

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 2 that nature and we haven't. Nevada's one
 3 state; there are 49 others. It stands to
 4 reason that there's probably more illegal
 5 betting than there is legal at this moment.

6 Q. If you can turn now to page 113
 7 which is Bates number 3465 -- no, 3478, sorry.
 8 Page 113, Bates number 3478. And it's the
 9 paragraph under the heading Gambling Monitors:

10 "The League has now arranged to
 11 obtain information on a regular basis
 12 from individuals and entities involved in
 13 the gambling business who can provide the
 14 League with information about unusual
 15 movements in the betting lines, rumors
 16 about such things as injury reports or
 17 referee schedules or where the 'smart
 18 money' is being wagered."

19 Again, are the individuals and
 20 entities involved in the gambling business
 21 that are referred to in this paragraph
 22 exclusively the Las Vegas Sports Consultants
 23 and Mark Goldman?

24 A. Yes.

25 Q. And then at the end of that

1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 Do you know how often the Las Vegas Sports
 3 Consultants and Mr. Goldman have contacted the
 4 NBA since you implemented this system?

5 A. Well, I believe LVSC is contacting
 6 us daily in the sense that they provide us
 7 with the lines. So we're getting the basic
 8 data every day from them. I believe the
 9 arrangement is also that we will get -- we
 10 will be contacted when there is something
 11 unusual that comes to their attention, and
 12 that happens only when there is something
 13 unusual so it is more periodic.

14 Q. Now, I apologize if I've already
 15 asked this. But during your time at the NBA,
 16 there have been no confirmed game-fixing
 17 incidents in the NBA; is that correct?

18 A. That's correct.

19 Q. Are there any other specific
 20 instances of point-shaving in the NBA caused
 21 by sports gambling that you're aware of?

22 MR. MISHKIN: I think it's been
 23 asked and answered. But you can answer
 24 it again.

25 A. I think your question was are there

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 any other and I don't think I testified that
 3 there were any. So I'm not aware of any
 4 circumstances of point-shaving.

5 Q. Okay, fair enough.

6 Now, is one of the alleged harms
 7 that -- or one of the harms that the NBA
 8 alleges that legalizing sports gambling in New
 9 Jersey will increase the perception by the
 10 public that NBA games are not completely
 11 legitimate? Is that --

12 A. Well, as I think I testified
 13 earlier, the primary focus that we have is on
 14 the nature of our relationship with the fans
 15 and the way in which legalized gambling would
 16 affect that relationship. It's also alleged
 17 in the Complaint that there is a concern about
 18 the perception of the game that fans may have,
 19 and we certainly support what's in the
 20 Complaint in that regard.

21 Q. Okay. I want to focus now on the
 22 public perception allegations. Would you
 23 agree with me that the perception that NBA
 24 games are not completely legitimate already
 25 exists for some portion of the public?

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 I said earlier, it's in the same -- more
 3 gambling can only -- the only possibility is
 4 that there will be more of that kind of a
 5 perception. But I don't know for sure.

6 Q. Mr. Buchanan, do you know if some
 7 portion of the public perceives that the
 8 league office itself fixes games?

9 A. I know that in our -- in the market
 10 research we have done, that there is a
 11 perception amongst some that the league office
 12 is involved with referees in influencing the
 13 outcome of games.

14 Q. Do you know why the public
 15 perceives that the league office, in
 16 conjunction with League referees, influences
 17 the outcome of games?

18 A. No. I only know what the data
 19 says, which is that there is that perception.

20 MR. HOFFMAN: I'm going to show you
 21 what's been marked as NBA Exhibit 3.
 22 (Exhibit 3: NBA Gambling Survey
 23 (#PLAINTIFFS' 00002263-268), was marked
 24 for identification.)

25

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 A. Unfortunately, I would.
 3 Q. Do you know why that is?
 4 MR. MISHKIN: Object to the form of
 5 the question.
 6 Q. As you sit here today, do you know
 7 why the public -- why some portion of the
 8 public perceives NBA games as not being
 9 completely legitimate?

10 MR. MISHKIN: Again, object to the
 11 form of the question.

12 A. I don't -- I don't know
 13 specifically why. We've -- we have conducted
 14 market research from time to time, and I
 15 believe we have produced these studies to you
 16 that reflect a perception in that regard from
 17 a certain percentage of our fan base.

18 Q. Is it the NBA's contention that the
 19 percentage of the public with the perception
 20 that NBA games are not completely legitimate
 21 would increase or would go up if New Jersey
 22 implements its sports gambling law?

23 MR. MISHKIN: Object to the form of
 24 the question. You can answer.

25 A. I don't know. I only know that, as

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 [HIGHLY CONFIDENTIAL]
 3 BY MR. HOFFMAN (continuing):
 4 Q. By the way, if you need to take
 5 time to review the document, let me know.
 6 Do you recognize this document?

7 A. Yes.

8 Q. What is this document?

9 A. It's a document entitled NBA Las
 10 Vegas Gambling Survey conducted on 7-16-07 by
 11 Harris Quick Query.

12 Q. Do you know why this survey was
 13 conducted?

14 A. Yes. My recollection is that in
 15 this time period, the NBA owners were
 16 considering Las Vegas as a potential market
 17 for an NBA team; in other words, considering
 18 whether we would potentially relocate one of
 19 our teams if it wanted to move to Las Vegas.

20 And in that connection, a committee
 21 of owners was formed to study that issue and
 22 league office staff, including myself,
 23 assembled information to -- for their review.
 24 And one of the pieces of information that we
 25 provided to them was the result of this

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 survey.
 3 And we do market research on a
 4 consistent basis, as most companies of our
 5 kind do; and there was a survey panel that was
 6 available to us, because of our relationship
 7 with Harris, where we could easily provide
 8 some questions and get some answers. And
 9 that's how -- that's what we did.

10 Q. Do you know if the NBA owners are
 11 still considering the possibility of moving or
 12 having a team move to Las Vegas at some point?

13 A. It's not under active consideration
 14 at this moment.

15 Q. What is the NBA's position
 16 regarding a team possibly moving to Las Vegas?

17 MR. MISHKIN: Object to the form of
 18 the question.

19 A. Well, because it's not under active
 20 consideration, I'm not sure we have a position
 21 at this time. I would say that there is no
 22 prohibition or bar toward consideration of
 23 that market. It's a market that the owners
 24 would think about.

25 But the way things work with

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 that we had a team that wanted to move there.
 3 But there are -- this is one of the
 4 greatest puzzles that sports leagues face
 5 because there are so many moving pieces in
 6 this kind of a situation, principally in Las
 7 Vegas, relating to the construction of an
 8 arena which doesn't currently exist. And as a
 9 result, it was sort of a hypothetical exercise
 10 at that point until an arena is constructed.

11 Since this committee met in July of
 12 '07, the economic circumstances in this
 13 country and in Las Vegas changed rather
 14 radically, and therefore I think any
 15 additional consideration of the market would
 16 probably start anew now.

17 Q. During those discussions back in
 18 2007, did the topic of legalized gambling in
 19 Nevada come up?

20 A. Gambling in Las Vegas was discussed
 21 as part of the committee's consideration.

22 Q. And was that a concern to the
 23 committee?

24 A. Yes.

25 Q. Why so?

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 respect to the location of teams in the
 3 NBA--and I think it's true in other
 4 leagues--is that you have to have a team that
 5 actually wants to move unless you're
 6 interested in expansion, which we are not at
 7 the moment. So as a result, it's not -- at
 8 the current time, there is no team that is
 9 actively looking to move, that at least has
 10 formally said they want to move. So as a
 11 result, it's not part of our active
 12 consideration.

13 Q. Back in 2007 when this survey was
 14 conducted, did the NBA have a position
 15 regarding the potential for a franchise to
 16 move to Las Vegas?

17 A. The primary issue or a primary
 18 issue that the committee was considering was
 19 whether or not Las Vegas was a commercially
 20 viable market for an NBA team. And views were
 21 positive in that regard at the time, that it
 22 was commercially viable. And so the committee
 23 was, at the time, actively considering and I
 24 believe it would have been willing to
 25 potentially move a team there, again, assuming

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 A. Well, for a variety of reasons.
 3 One reason is that we don't have a team
 4 currently located in any jurisdiction in which
 5 gambling is legal, and there were concerns
 6 expressed about that issue.

7 Proximity of gamblers to the team,
 8 its staff, its players, raised the issue of
 9 confidential information being passed more
 10 easily and therefore problems relating to
 11 tipping, problems relating potentially to
 12 game-fixing; those were discussed.

13 In addition, gambling is a --
 14 sports and non-sports gambling is an issue
 15 that leads to problems with some people,
 16 including addiction to gambling. And there
 17 was concern expressed with having one of our
 18 teams based in an environment like that where
 19 gambling is legal and therefore easy to become
 20 engaged in and, whether it's a player or a
 21 team staff member, that that could become a
 22 problem as well. So those issues were
 23 discussed.

24 Also discussed was the question of
 25 what perception fans might have in respect of

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2 locating a team there, and, again, the
3 proximity to gambling, some of which was
4 addressed in this survey.
5 Q. A couple pieces there. During
6 these discussions, if you can recall, was the
7 issue of legal gambling in Las Vegas -- would
8 that have precluded the move of any NBA team
9 to Las Vegas?
10 A. Potentially. In other words, it
11 was discussed whether -- one issue that was
12 discussed was whether, if a team moved to Las
13 Vegas, we would require that the NBA games be
14 taken off of the sportsbook in Las Vegas as a
15 condition to move there. That was discussed.
16 So that issue was one that the committee was
17 dealing with.
18 And, again, this is a committee of
19 owners and not the full board, so it's a
20 subset of the group. The way we work is to
21 have committees handle some issues and make
22 recommendations to the full board. But it
23 didn't reach the stage of having the full
24 board deal with a potential move because, as I
25 said, the practicalities were not in place for

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
2 going to mark as NBA Exhibit 4 now.
3 (Exhibit 4: Harris Interactive
4 Quick Query 2007 study (#PLAINTIFFS'
5 00002292-2300), was marked for
6 identification.)
7 BY MR. HOFFMAN (continuing):
8 Q. Mr. Buchanan, do you recognize this
9 document?
10 A. Yes.
11 Q. Can you tell us what this document
12 is.
13 A. This is another Harris market
14 research study performed in December of 2008
15 that is of the same nature as Exhibit 3, which
16 was done in 2007. And this document,
17 Exhibit 4, has a comparison of the results in
18 December 2008 to the results in 2007.
19 Q. And do you know why this particular
20 survey was conducted?
21 A. This was conducted, by my
22 recollection, simply to -- because we had a
23 baseline now in the questions that we asked in
24 '07, it seemed to us that it was sensible to
25 carry that forward to see how perceptions may

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2 that.

3 Q. Okay. If you could turn to NBA
4 Exhibit 3, it's Bates number 2264. You
5 mentioned that one of the issues that was
6 discussed by the committee of owners was the
7 public perception of a sports team in Las
8 Vegas. If you look in the middle of the page
9 there, there's a question that was put forward
10 in the survey: "If a professional sports
11 league launched a team in Las Vegas, how would
12 it impact your attitude towards the league?"

13 If you see there the first was "It
14 would negatively affect my attitude" received
15 9 percent; it would improve my attitude 4
16 percent; and then it would not change my
17 attitude towards the League 87 percent.

18 Do you know, did the NBA view these
19 numbers favorably or unfavorably?

20 MR. MISHKIN: I object to the form
21 of the question. You can answer if you
22 understand it.

23 A. Well, I just -- I would say
24 neither. It's just data.

25 Q. I'm going to show you what we're

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN

2 have changed over time.

3 Q. Do you know whether any of the --
4 let me ask this: This study was conducted
5 after the Tim Donaghy incident first became
6 public; is that correct?

7 A. The Exhibit 4, yeah. So Donaghy
8 became public actually in I believe August of
9 '07, my recollection, or September of '07. So
10 Exhibit 3 was done pre-Donaghy in December
11 '08; Exhibit 4 was done post-Donaghy.

12 Q. Do you know whether the Donaghy
13 incident was a reason that this particular
14 survey was conducted?

15 A. I don't specifically. I assumed it
16 was in the mix but, again, it was more focused
17 on the fact that we had this earlier survey
18 and it was relevant to the work that the
19 committee was doing at that time. And we
20 simply wanted to carry it forward, to have the
21 data.

22 Q. Okay. Can I have you turn to the
23 page that ends in Bates number 2293. And,
24 again, this was conducted in December 2008.
25 So by December 2008, according to this

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 2 graphic, approximately 68 percent of the
 3 public associated the NBA with gambling. Am I
 4 looking at this correctly?

5 A. I believe so.

6 Q. And so 68 percent of the public
 7 associated the NBA with gambling and this was
 8 in the absence of any legalized gambling in
 9 the state of New Jersey; is that right?

10 A. Well, I guess just to be a little
 11 more precise, I think that the survey
 12 population here is not the general public. My
 13 recollection is that it's people who have some
 14 sports interest, so it's a subset. I'd have
 15 to look more particularly at one of the
 16 documents, but I think it's -- you're looking
 17 for a pool of people who actually follow
 18 sports, you could call them sports fans.

19 But out of that group, 68 percent
 20 of that group associated the NBA with gambling
 21 when this was done.

22 Q. And if you could turn the page to
 23 2294, and here this graphic shows that -- I'm
 24 sorry, not the graphic. If you look at the
 25 bullet point, it states that the percentage of

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 actually improved. Am I looking at that
 3 accurately?

4 A. That's what it says. I guess I
 5 would only note that one of the things I --
 6 when I mentioned I had met with Jason Kaufman,
 7 who's our director of market research, to
 8 understand a little bit to be refreshed in
 9 this stuff, one of the things he mentioned to
 10 me was the 3 percentage points in roundabout
 11 sort of within the margin of error.

12 So I agree with you that's
 13 certainly what the slide says, but I guess I
 14 would note that 56 to 59 you're sort of still
 15 in the same ballpark.

16 Q. Okay. So even if you include the
 17 margin of error, this graphic on page 2295
 18 would show that trust levels in the NBA did
 19 not decrease between July 2007 and December
 20 2008?

21 A. I'm not going to argue with you. I
 22 mean, the slide says what it says and it says
 23 at the top "Like most sports, trust levels
 24 have improved, however, since July 2007." My
 25 only point is I just sort of take a little bit

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 the respondents who associated the NBA with
 3 gambling, a great deal or a fair amount rose
 4 from 34 percent in July 2007 to 45 percent in
 5 2008 when the survey was taken?

6 (Court Reporter interruption.)

7 Q. So in December 2008 according to
 8 this survey, 45 percent of the respondents,
 9 the people responding to the survey,
 10 associated the NBA with gambling, quote, "a
 11 great deal" or a, quote, "fair amount," up
 12 from 34 percent in July of 2007. Is that
 13 correct?

14 A. Yes. This was not a good trend.

15 Q. Okay. But if you turn to
 16 Plaintiffs' 2295, if you look at the first
 17 line in the white section, it says: "Like
 18 most sports, trust levels in the NBA have
 19 improved since July of 2007."

20 Did I state that accurately?

21 A. That's what it says.

22 Q. Okay. So during the same time
 23 period that the percentage of respondents
 24 associating the NBA with gambling rose, during
 25 that same time period trust levels in the NBA

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 movements of this small magnitude with a grain
 3 of salt.

4 And so your question, for example,
 5 it's theoretically possible that the 56 number
 6 in July of '07 could have been 59 and the 59
 7 number in December of '08 could have been 56.
 8 I'm not a market research guy, okay. But the
 9 slide says what it says.

10 Q. So, again, based on what this slide
 11 says, trust levels in the NBA actually
 12 improved after the public learned of the
 13 Donaghy incident during the summer of 2007?

14 MR. MISHKIN: I object to the form
 15 of the question given the previous
 16 answers, and I think you're just arguing
 17 with the witness. But you can answer the
 18 question.

19 A. Again, the slide says what it says.
 20 I must say, you know, I -- I would need to
 21 understand a little more about what trust
 22 means in this context to have a real good
 23 sense of how it relates to the question that
 24 you asked.

25 Q. If you could turn to now 2300, so I

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 think it's the last page of this survey. And
 3 underneath the bar graphs, it states:
 4 "39% of people stated that NBA
 5 referees frequently give preferential
 6 treatment to star players, the highest
 7 among professional sports officials."
 8 Was this statistic a concern to the
 9 NBA?

10 A. Well, what I would say is the issue
 11 of star calling or favorable calls to star
 12 players is an issue that concerns the NBA.
 13 This data from December of 2008 in the sense
 14 that it raised the issue was not news to us
 15 for reasons that are complex and would take up
 16 way more time than either of us wants to take.

17 For some reason, this -- the NBA
 18 has more of a problem in this regard than
 19 other leagues, notwithstanding the fact that
 20 it's actually not true. So it's something to
 21 do with the nature of our sport, it's
 22 something to do with the way in which
 23 officiating is viewed as impacting our sports
 24 by fans. It's something we are concerned
 25 about and continue to work at.

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 2 type of avid fans that we have and the nature
 3 of our game where foul calls occur in
 4 milliseconds and partisans will believe what
 5 they want, I don't know.

6 I will tell you that one of the
 7 things that is irrelevant to why we're here
 8 but I will say it anyway, that I'm constantly
 9 amazed by is how often our officials get it
 10 right when you really look at it. And NBA
 11 basketball is played at such a high speed and
 12 it's an unbelievable sport, and these guys are
 13 unbelievable athletes. And our best
 14 officials, they get stuff right all the time
 15 that when you see it bang, bang, you think
 16 they'd be guessing and they get it right. So
 17 fans don't think so, but they do.

18 Q. I'm going to now show you what
 19 we're going to mark as NBA Exhibit 5.

20 (Exhibit 5: Harris Interactive
 21 Quick Query 2009 study (#PLAINTIFFS'
 22 00002273-2286), was marked for
 23 identification.)

24 BY MR. HOFFMAN (continuing):

25 Q. And, Mr. Buchanan, do you recognize

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 Q. Does the NBA think this particular
 3 statistic reveals that a certain percentage of
 4 the public perceives that NBA games are not
 5 completely legitimate?

6 MR. MISHKIN: I just want to object
 7 to the form of the question about what
 8 the NBA thinks. You haven't really
 9 defined -- the NBA involves an awful lot
 10 of people. So subject to certain
 11 vagueness about who you're referring to,
 12 the witness can answer.

13 A. I don't agree with this statement
 14 that you made about that NBA games are not
 15 legitimate. I'm not sure I know what it
 16 means. I know that there is an issue that
 17 people -- that there is a perception among
 18 some portion of our fans that star players in
 19 the NBA get more favorable treatment from
 20 referees than non-star players, and that's of
 21 concern to us.

22 It also is not true and, as a
 23 result, we take steps and are committed to
 24 trying to change that perception. Whether we
 25 will ever be successful in doing so with the

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 2 this document?

3 A. Yes.

4 Q. What is this document?

5 A. It's another Harris study, this
 6 time done in the fall of 2009 similar in
 7 nature to the last two exhibits that we looked
 8 at.

9 Q. And did you review this document
 10 during your preparation for your deposition
 11 today?

12 A. I did. I looked at this.

13 Q. If I could have you turn to page --
 14 it's page 9, Bates number 2281.

15 A. Yes.

16 Q. And so the respondents of this
 17 survey, they were asked to indicate their top
 18 three concerns about professional sports. And
 19 you'll see that game-fixing -- 18 percent of
 20 the respondents ranked game-fixing as one of
 21 their top three concerns in professional
 22 sports. Do you see that?

23 A. I do.

24 Q. Okay. And then down at the bottom,
 25 8 percent of the respondents indicated

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 gambling as one of their top three concerns in
 3 professional sports.

4 Now, you would agree with me that
 5 if you focus on game-fixing, that was ranked
 6 below steroids, performance-enhancing drugs,
 7 player salaries, off-court behavior,
 8 officiating and on-court behavior?

9 MR. MISHKIN: Counselor, that's
 10 what the document shows, but what's your
 11 question?

12 Q. I'm just getting confirmation. Is
 13 that what the document shows?

14 A. That's what the document shows.

15 Q. Now, do you know whether the
 16 respondents who indicated that game-fixing was
 17 among their top three concerns attributed
 18 their concern to game-fixing associated with
 19 gambling as opposed to game-fixing by the
 20 League itself?

21 A. I don't know. I don't know. But I
 22 -- again, I -- it's -- these are difficult
 23 things to deal with. I don't know whether in
 24 someone's mind when they talk about -- you
 25 don't typically see in the discussions which

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 there which is Bates 2231, the second-to-
 3 the-last bullet point on that page states:

4 "Nearly twice as many people
 5 believe the NBA has game-fixing problems
 6 (30%), then the next most likely sport
 7 (college basketball 26%)" --

8 A. I hate to cut you off.

9 Q. It's the fourth bullet point,
 10 second from the bottom, my apologies.

11 MR. MISHKIN: Just because this
 12 document is itself marked "Highly
 13 Confidential," as are all of these
 14 surveys, I probably have been remiss in
 15 not designating the questions about these
 16 highly confidential.

17 So if it's all right with you,
 18 Mr. Hoffman, sort of nunc pro tunc I
 19 would like to designate the portion of
 20 the transcript from the point at which
 21 you began marking any document that's
 22 "Highly Confidential" I guess beginning
 23 with NBA 3.

24 MR. WEGNER: That's, of course,
 25 fine. And I would suggest, Jeff, that at

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 2 make us -- don't make us happy, but you
 3 typically don't see concerns about the League
 4 office's agenda talked about in terms of
 5 fixing. You see it talked about in terms of
 6 the conspiracy between the league office and
 7 the officials or something of that nature. I
 8 don't know what respondents have in their mind
 9 when they answered the question.

10 Q. All right. I'm going to now show
 11 you what we're going to mark NBA Exhibit 6.
 12 (Exhibit 6: NBA Integrity Survey
 13 4/16/10 (#PLAINTIFFS' 00002231-248), was
 14 marked for identification.)

15 BY MR. HOFFMAN (continuing):

16 Q. Mr. Buchanan, do you recognize this
 17 document?

18 A. Yes.

19 Q. And what is this document?

20 A. This is results from another Harris
 21 survey, this time in March of 2010.

22 Q. Did you review this document during
 23 your preparation for your deposition today?

24 A. I did, I looked through this.

25 Q. If you could just look at page 1

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 one of the breaks at the end, she's very
 3 good at skimming back to make sure that
 4 you get a chance to look at it to make
 5 sure it's satisfactory to you before we
 6 leave.

7 MR. MISHKIN: Thank you very much.
 8 But I would like to make that designation
 9 retrospectively. Thank you.

10 MR. HOFFMAN: Understood.

11 BY MR. HOFFMAN (continuing):

12 Q. So the fourth bullet point on page
 13 1 starts "Nearly twice as many people."

14 A. Yes.

15 Q. That bullet point states:

16 Nearly twice as many people believe
 17 the NBA has game-fixing problems (30%),
 18 then the next most likely sport college
 19 basketball at 16% or the next most likely
 20 professional league NFL at 14%. While
 21 game-fixing isn't a top concern overall
 22 in professional sports, clearly the NBA
 23 'owns' this problem.

24 Mr. Buchanan, why do you think the
 25 respondents of this survey believed that the

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 2 NBA -- or actually, let me restate the
 3 question.
 4 Why do you think Harris Interactive
 5 concluded that the NBA owns the game-fixing
 6 problem?
 7 A. I don't -- I don't know. My
 8 interpretation of the statement, which may not
 9 be correct, is that what was meant is -- by
 10 owning it, is that among the leagues, we're
 11 the one that has the highest number so we
 12 stand apart from the other leagues in that
 13 regard and are singular in that way. That's
 14 what I took it to mean.
 15 Q. And similar to my earlier question
 16 on the other survey, do you have any idea
 17 whether this survey reflects the belief that
 18 game-fixing is a result of gambling as opposed
 19 to NBA office behavior?
 20 A. I don't know. I would also just
 21 note that -- well, strike that.
 22 Q. If you could turn to page 12 now.
 23 A. Yes.
 24 Q. Which is Bates number 2242, and I
 25 want to refer you to -- there's a heading that

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 2 officiating is.
 3 And so we have dedicated ourselves
 4 over time, but maybe even more so in the last
 5 five years or so coming off of the Tim Donaghy
 6 matter, to communicating all of that to the
 7 public. And so we allow the media into our
 8 referee training camp, we try to communicate
 9 as clearly as we can exactly what the process
 10 is for how calls are made. We're much more
 11 transparent now in decision-making in review
 12 of calls.
 13 As an example, it really wasn't the
 14 practice of the office prior to the last few
 15 years to acknowledge that calls were missed in
 16 critical contexts. And now we typically will
 17 make an announcement from the league office
 18 that this call was missed. We think that's in
 19 the interest of transparency and having people
 20 understand that we're all trying to get to the
 21 goal where calls are made very accurately.
 22 You see a call, you make a call.
 23 And so that's what we're doing and
 24 that's the only thing we really can think to
 25 do because, as I said before, the fact is the

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 2 says "League Executive and Game-Fixing." Do
 3 you see that?
 4 A. Yes.
 5 Q. And then it states:
 6 "40% of respondents believe that
 7 the NBA league office influences the
 8 outcome of games to benefit its business,
 9 slightly more than the NCAA and its
 10 conferences (37%) NFL (33%) and MLB
 11 (33%)."
 12 Do you know what the NBA is doing to
 13 address those concerns?
 14 A. Yes.
 15 Q. And what is that?
 16 A. Well, as I referenced earlier, we
 17 -- the fact is that there is no influence on
 18 the outcome of games or any attempt to steer
 19 referees to make calls or to favor certain
 20 teams. And the only way to -- that we know of
 21 to try to communicate that fact to the public
 22 is by being as transparent as we can in the
 23 way that we train our officials, the way that
 24 we monitor our officials, the way in which
 25 they make calls and what the process of

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 2 league office does not influence the outcome
 3 of games to benefit our business. We don't do
 4 that. So we figure if we ventilate the truth,
 5 eventually that will become the perception as
 6 well.
 7 Q. And then the next bullet point
 8 says:
 9 "Avid NBA fans (49%) are even more
 10 likely than the general population to
 11 believe that the NBA league office
 12 influences the outcome of game to benefit
 13 business."
 14 Do you have any idea why avid NBA
 15 fans as opposed to more run-of-the-mill NBA
 16 fans would be more likely than the general
 17 population to believe that the NBA league
 18 office influences the outcome of games to
 19 benefit business?
 20 A. My surmise is it's because they are
 21 -- they care more. They're more passionate
 22 and more rabid and more partisan about their
 23 teams so when their teams lose, they typically
 24 look for reasons other than the strength or
 25 weakness of their team to explain why that

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 2 happened.
 3 (There was an interruption in
 4 proceedings.)
 5 A. So I was going to continue with
 6 that answer. I'm not sure if I finished it
 7 and I apologize for my phone going off.
 8 The sum of it is I believe that the
 9 more passionate the fan, the more likely that
 10 fan is to think that an undesired outcome in a
 11 game--in other words, if that fan's team
 12 loses--is due to officiating or due to some
 13 imagined conspiracy between the league office
 14 and the referees as opposed to actually that
 15 the team wasn't good enough to win.
 16 Q. And do you have an opinion as to
 17 whether it's harder to change the perceptions
 18 of avid fans as opposed to your regular NBA
 19 fan?
 20 A. I don't have an opinion in that
 21 regard. I don't. I would be hopeful that our
 22 efforts to make clear how officiating works in
 23 the NBA would be convincing to anyone.
 24 Q. I'm now going to have you take a
 25 look at what we're going to mark as NBA

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 human error and not part of a league
 3 office master plan, fans can accept it as
 4 part of the game.
 5 "The NBA's strong associations with
 6 game-fixing and gambling and the fact
 7 that the majority of our avid fans
 8 believe that our referees grant
 9 preferential treatment to certain players
 10 and teams are what can be most damaging
 11 to our product."
 12 Do you know why the majority of avid
 13 fans believe NBA referees grant preferential
 14 treatment to certain players?
 15 MR. MISHKIN: I think it's been
 16 asked and answered. You can answer it
 17 again.
 18 A. Yeah, I think it's the very last
 19 answer that I gave.
 20 Q. Other than these surveys that we've
 21 been discussing, does the NBA have any studies
 22 indicating why people might get the perception
 23 that NBA games are being fixed? So maybe it
 24 would be helpful if I rephrase.
 25 These studies show, you know, raw

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 Exhibit 7.
 3 (Exhibit 7: NBA Integrity Survey
 4 12/7/09 (#PLAINTIFFS' 00002249-2262), was
 5 marked for identification.)
 6 BY MR. HOFFMAN (continuing):
 7 Q. Mr. Buchanan, do you recognize this
 8 document?
 9 A. I do.
 10 Q. And what is this document?
 11 A. This is a document reflecting
 12 results from another Harris Interactive
 13 survey, this time dated December 2009.
 14 Q. Did you review this document during
 15 the preparation for your deposition?
 16 A. I did.
 17 Q. On page 1 which is Plaintiffs'
 18 2249, I direct your attention to paragraph 5
 19 which states:
 20 "There is an important distinction
 21 that needs to be made between poor
 22 officiating and the perception of
 23 game-fixing. Obviously bad officiating
 24 can lead to perceptions of game-fixing,
 25 but if it is viewed as the result of

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 data, as I think you testified to earlier.
 3 But does the NBA have a study as to why people
 4 might get the perception that NBA games are
 5 being fixed?
 6 A. Well, I guess I would only say that
 7 we have these studies and I don't -- I'm not
 8 aware of anything else that we have that's
 9 like these studies because if we had it, we
 10 would have produced it to you.
 11 So in terms of the "why," there may
 12 be some answers to those questions in these
 13 studies which I'm not a -- I don't have
 14 memorized, but there's nothing beyond these
 15 that I'm aware of.
 16 Q. I'm going to show you what we're
 17 going to mark as NBA Exhibit 8, and you'll be
 18 happy to know this is the last survey we'll be
 19 discussing.
 20 (Exhibit 8: NBA Integrity Survey
 21 2011 (#PLAINTIFFS' 00002287-2291), was
 22 marked for identification.)
 23 BY MR. HOFFMAN (continuing):
 24 Q. Mr. Buchanan, do you recognize this
 25 document?

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 A. I do. It is another Harris study,
 3 this time spring of 2011.
 4 Q. And did you review this document
 5 during the preparation for your deposition
 6 today?
 7 A. I did.
 8 Q. Could I have you turn to page 3
 9 which is Bates number 2289.
 10 A. Yes.
 11 Q. And if you look at -- there's a row
 12 that says Game-Fixing, and my understanding,
 13 again, this shows percentage of respondents to
 14 the survey who marked or who listed these
 15 issues listed in the first column as one of
 16 their top three concerns in professional
 17 sports. Did I state that accurately?
 18 A. That's my understanding also.
 19 Q. And if you look at game-fixing,
 20 which is the fourth row from the bottom, it
 21 appears that in November 2009 it starts with
 22 percentage of the respondents who listed
 23 game-fixing as a top three concern was 17
 24 percent; and in June 2011 the percentage of
 25 respondents who listed game-fixing as a top

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 1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 the survey -- let me restate the question.
 3 The conclusion of this Harris
 4 survey is that gambling had significant
 5 decreases in fan concern during the regular
 6 season. And my question is: Do you know what
 7 that is attributed to, if you know?
 8 A. Yeah, it's -- it's difficult to
 9 say. This one's a little hard in a number of
 10 ways. I mean, one is even the statement you
 11 read me about the regular season is sort of
 12 curious considering that the data collection
 13 period for this was June 6th through June
 14 13th. So I'm just -- I'm having a hard time
 15 mapping that statement about the regular
 16 season.
 17 And then the other piece is all of
 18 these -- all of the data points that relate to
 19 top three issues of course end up being
 20 relative to one another. And so if one of the
 21 items shifts its positions, it could well be
 22 because there was some topical problem with
 23 respect to one of the other issues.
 24 And so here I see player salaries,
 25 steroids and off-court behavior being the top

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 1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 three concern was 14 percent. Did I get that
 3 right?
 4 A. I see that.
 5 Q. Okay. And during that same time
 6 period, if you go to the second row from the
 7 bottom which lists gambling, the same numbers
 8 went from 8 percent in November 2009 to 5
 9 percent in June 2011. Did I get that right as
 10 well?
 11 A. I see that.
 12 Q. Okay. And then the sentence above
 13 the last sentence there above the table says
 14 that "Officiating and gambling had significant
 15 decreases in fan concern during the regular
 16 season."
 17 Do you know, to what does the NBA
 18 attribute that decrease?
 19 MR. MISHKIN: Well, to the extent
 20 that question is -- it refers to
 21 professional sports. I don't know,
 22 there's no particular NBA reference here
 23 so what are you asking Mr. Buchanan?
 24 Q. Do you know why the respondents in
 25 this survey, the percentage of respondents in

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 1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 three. It may be that during this particular
 3 period, there was an issue about those or
 4 about some others that moved its relative
 5 rank. So those are just -- that's really just
 6 surmise so I don't know.
 7 Q. Okay. If you could turn to the
 8 next page, page 4, Bates number 2290, again
 9 the third bullet point there states:
 10 "Compared to the 2009-2010 season,
 11 opinions that gambling and game-fixing
 12 were problem areas for the NBA have
 13 significantly decreased."
 14 And the same question: Do you know
 15 why that is, why those opinions significantly
 16 decreased?
 17 A. Yeah, it's the same -- it's the
 18 same answer I gave. It's a -- you know, on a
 19 relative basis to these other issues, so I
 20 don't know. You know, it's curious in the
 21 page before and this one, too, you know, you
 22 see these numbers move around in odd ways.
 23 So in this -- on 2290 on the
 24 gambling line, the final percentage is 27
 25 percent in June of '11, it was 24 percent in

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
2 March of '11 so it went up. You know, I don't
3 really -- I don't know.
4 MR. HOFFMAN: Off the record.
5 [END OF HIGHLY CONFIDENTIAL
6 PORTION.]
7 (Lunch recess taken 12:10 p.m.)
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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
2 Q. Has the NBA seen any diminishment
3 in fan loyalty over the past 20 years?
4 MR. MISHKIN: Object to the form of
5 the question. I mean, if you want to
6 leave it at that level of generality, you
7 can. But you can answer.
8 A. Okay. You know, I don't -- I don't
9 know. I don't know.
10 Q. Okay. Do you know if NBA
11 attendance has increased or decreased over the
12 past 20 years?
13 A. Well, I would say total attendance
14 has increased and, of course, the number of
15 teams that we have in the League has also
16 increased, which is part of the reason for
17 that. We used to have 22 and now -- when I
18 first joined, and now we have 30.
19 Q. Any studies or surveys of the
20 impact of legal gambling on attendance or
21 ticket sales in the NBA?
22 A. Again, nothing -- no empirical data
23 of that kind that we have commissioned.
24 Q. Any empirical data of the impact of
25 illegal gambling on attendance or ticket sales

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
2 A F T E R N O O N S E S S I O N
3 (Resumed: 12:47 p.m.)
4 CONTINUED EXAMINATION
5 BY MR. HOFFMAN:
6 Q. Mr. Buchanan, earlier I think you
7 said the principal issue in terms of harm that
8 the NBA was concerned about was that the
9 legalization of sports gambling in New Jersey
10 would--and I don't want to misquote you--but I
11 think you essentially said that it would
12 damage your relationship with fans. Am I
13 saying that correctly?
14 A. Yes.
15 Q. Does the NBA have any studies or
16 surveys regarding how sports gambling might
17 damage the NBA's relationship with fans?
18 A. Well, if you mean by studies or
19 surveys market research or polls or things of
20 that nature, the answer is no. If you mean by
21 study the sort of informed view of people that
22 have, you know, worked at the league office
23 for a lot of years, then the answer is we
24 think we do, we think we have a fair basis to
25 believe that that would be the result.

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
2 in the NBA?
3 A. No.
4 Q. Any empirical data of the impact
5 that New Jersey's sports gambling law would
6 have on NBA attendance or ticket sales?
7 A. No. I guess that would have
8 required us to have done something in the last
9 whatever nine months or so, and so no.
10 Q. Any studies or surveys of the
11 impact of legal gambling on NBA's television
12 ratings?
13 A. No.
14 Q. Any studies or surveys of the
15 impact of illegal gambling on the NBA's
16 television ratings?
17 A. Again, in the sense of sort of
18 empirical data, no. In the sense of you said
19 the word "study"; my view is that when you
20 look at a problem over the course of years and
21 develop some familiarity and expertise with
22 it, that that's a study of a kind. And in
23 that regard, I believe we have studied the
24 problem and believe that we would get more
25 point spread fans and that would be the

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 result.
 3 Q. I think my question was specific to
 4 television ratings. Do you think -- well, let
 5 me ask it this way: Any empirical data of the
 6 impact of illegal gambling on the NBA's
 7 television ratings?
 8 A. Yeah, again, with respect to the
 9 empirical data, no.
 10 Q. Any empirical data of the impact
 11 that New Jersey's sports gambling law would
 12 have on the NBA's television ratings?
 13 A. No empirical data.
 14 Q. Do you know if the NBA's television
 15 ratings have increased or decreased over the
 16 past 20 years?
 17 A. Well, yeah, again, the ratings of
 18 virtually every form of entertainment have
 19 decreased over the past 20 years due in part
 20 to the fragmentation of the television
 21 marketplace and the number of offerings that
 22 are available. So I think the answer would be
 23 that our ratings, like the ratings of other
 24 professional sports, have decreased in that
 25 period.

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 are more valuable, we also broadcast our names
 3 on many more television outlets than we did
 4 previously. We're now available in 245
 5 countries, so we have a lot more television
 6 distributors and television networks that are
 7 paying us for the rights.
 8 Q. Any empirical data of the impact of
 9 legal gambling on total team revenue?
 10 A. No.
 11 Q. Any empirical data of the impact of
 12 illegal gambling on total team revenue?
 13 A. No.
 14 Q. Any empirical data of the impact
 15 that New Jersey's sports gambling law would
 16 have on total team revenue?
 17 A. No.
 18 Q. And has total team revenue
 19 increased or decreased over the past 20 years?
 20 A. It has increased. And just so I'm
 21 clear, total team revenue would be the
 22 collective revenue of -- all of the local
 23 revenue of the teams combined. And it has
 24 increased.
 25 Q. Other than what you've testified

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 Q. Same question, different time
 3 frame: Do you know if the NBA's TV television
 4 ratings have increased or decreased over the
 5 past ten years?
 6 A. Same answer.
 7 Q. Do you have any empirical data or
 8 does the NBA have any empirical data of the
 9 impact of legal gambling on the NBA's
 10 broadcast revenue?
 11 A. No, I don't believe we have such
 12 empirical data.
 13 Q. Any empirical data of the impact of
 14 illegal gambling on the NBA's broadcast
 15 revenue?
 16 A. No.
 17 Q. Any empirical data of the impact
 18 that New Jersey's sports gambling law would
 19 have on the NBA's broadcast revenue?
 20 A. No.
 21 Q. Has the broadcast revenue for the
 22 NBA increased or decreased over the past 20
 23 years?
 24 A. It has increased in part because,
 25 in addition to the fact that television rights

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 about today and what's in the Complaint in
 3 this action, is there anything else that the
 4 NBA's relying upon in support of standing or
 5 harm?
 6 A. Well, I think there might be. I
 7 mean, in other words, that's quite a broad
 8 question. I'm sure our lawyers will have
 9 arguments and cases and other things to argue,
 10 to rely upon in connection with their
 11 arguments about standing. So --
 12 Q. Fair enough. Let me -- it was
 13 probably a poor question. Let me rephrase the
 14 question.
 15 Any other evidence that you're
 16 relying upon, that the NBA's relying upon, in
 17 support of standing or harm?
 18 A. Well, I think I mentioned it
 19 previously but, of course, the findings in the
 20 federal antigambling law are an important part
 21 of that issue. And I believe I mentioned that
 22 earlier, but that's another source of material
 23 related to that.
 24 Q. Anything else?
 25 A. Well, and, again, I think I've

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 mentioned this, too, but we're -- the -- with
 3 due respect, the context of this deposition is
 4 us pointing to pieces of paper or surveys or
 5 things of that nature when, of course, there
 6 is the accumulated experience of all the
 7 people who have worked at the NBA for quite a
 8 long period of time, including myself,
 9 including the Commissioner of the NBA who has
 10 been working on NBA matters for decades.
 11 And I think that that experience
 12 provides a basis for a reasonable view as to
 13 the outcome of -- or the impact of gambling on
 14 our game. So I think I have testified to that
 15 previously so that would be included. But in
 16 case I did not, I wanted to make it clear.
 17 Q. Okay. Anything else?
 18 A. Not that I can think of right now.
 19 Q. What is the NBA's official position
 20 on the use of odds or point spreads in sports
 21 media outlets?
 22 MR. MISHKIN: Objection to the form
 23 of the question, lacking in foundation.
 24 A. I'm not sure that we have an
 25 official position in that regard. We -- we

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 season; accumulate points as a result of their
 3 performances and based on the number of points
 4 accumulated, compete against other players who
 5 are doing the same thing.
 6 Q. Would you agree with me that some
 7 fantasy sports leagues have entry fees?
 8 A. I'm aware that some have entry
 9 fees.
 10 Q. Would you agree with me that there
 11 are often monetary prizes for winning fantasy
 12 leagues?
 13 A. I'm not sure I would agree about
 14 often because I don't have a view of the
 15 entire world of fantasy. But I know that
 16 there are some that have prizes.
 17 Q. Okay. Would you agree that success
 18 in fantasy sports tends to be a combination of
 19 both skill and luck?
 20 A. Well, I am not a fantasy player
 21 myself and so I don't have a great sense of
 22 that. But if -- I think there are elements of
 23 both involved because certainly if you
 24 assemble a team that includes players who
 25 become subject to injury or have some other

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 are aware that point spreads or odds are
 3 published with respect to our games in
 4 countless outlets, whether they be newspapers
 5 or Internet sites or on broadcasts. And we
 6 don't -- I don't think we are in a position to
 7 control that.
 8 Q. Does the NBA actively discourage
 9 sports media from posting odds or point
 10 spreads?
 11 A. We do not because it would be -- it
 12 would be pointless. We'd be -- there's a
 13 great deal of that, publication of that
 14 information, and we would not be successful in
 15 any effort to persuade people not to do that.
 16 Q. I want to talk a little bit about
 17 fantasy sports. How would you define fantasy
 18 sports?
 19 A. Fantasy sports is an enterprise
 20 where an individual will select members of a
 21 hypothetical sports team from players who
 22 participate on various teams in the league, in
 23 our league or some other sport; assemble this
 24 hypothetical team of players and then track
 25 their performances over the course of a

1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 misfortune befall them and if you call that
 3 luck in the sense of it being chance, I guess
 4 that's true, then there are elements of both.
 5 Q. I want to show you what's going to
 6 be marked as NBA Exhibit 9.
 7 (Exhibit 9: Fantasy Industry Trends
 8 (#PLAINTIFFS' 00003511-557), was marked
 9 for identification.)
 10 BY MR. HOFFMAN (continuing):
 11 Q. Mr. Buchanan, do you recognize this
 12 document?
 13 A. I do not.
 14 Q. If you need to take a moment to
 15 take a look, let me know when you're ready.
 16 A. (Examining document.)
 17 Q. But I will tell you I'm going to
 18 focus on pages 39 and 40.
 19 A. Okay.
 20 Q. This document is -- it looks like
 21 it's a publication or a presentation by the
 22 Fantasy Sports Trade Association entitled
 23 Fantasy Industry Trends. And if you turn to
 24 page 39 which is Bates number 3549, if you see
 25 there, this is a chart of how fantasy sports

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 affects consumers and there's a number of
 3 propositions, and then it shows a percentage
 4 of the respondents who agreed in 2006 and
 5 percentage of respondents who agreed in 2007.
 6 Is that fair?

7 MR. MISHKIN: Well, the witness
 8 said he can't identify the document. If
 9 you're asking him to -- what's on the
 10 page, I'd object to the question. But he
 11 can tell you what he sees on the page.

12 A. Yeah, I am a little uncomfortable
 13 testifying about something that I've never
 14 seen. I've never even heard of the Fantasy
 15 Sports Trade Association before, but the page
 16 you've directed me says: "How fantasy sports
 17 affects consumers" and has the table with 2006
 18 agree, 2007 agree.

19 Q. Okay. Why don't you go ahead and
 20 turn to page 40 then.

21 A. Okay.

22 Q. Which is Bates numbers 3550. And
 23 if you look at the third row, it states: "I
 24 have rooted for my fantasy sport player
 25 playing against my favorite professional

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 players and one of those is a Boston Celtics
 3 player and you're an LA Lakers fan, then when
 4 the Celtics play the Lakers, it's certainly
 5 possible for you to root for that Boston
 6 Celtics player to have a good game while also
 7 rooting for the Lakers to win.

8 So, you know, the point of fantasy
 9 is it's a product that's designed for our sort
 10 of most avid fans who want to have a deeper
 11 connection with the League as a whole in
 12 addition to their particular team, and it's
 13 sort of an additive component of the way that
 14 we try to relate to these people. And so in
 15 that example, that wouldn't necessarily
 16 concern me.

17 Q. So feel free to disagree, but what
 18 I think you're saying is that there are
 19 scenarios where if you're rooting for a player
 20 from your fantasy team and your favorite team,
 21 rooting for those things may not be mutually
 22 exclusive. Is that fair?

23 A. Correct. Yeah, correct.

24 Q. Does the NBA have any empirical
 25 data on the impact of fantasy sports on

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 team." And in 2006 it appears to be that 68
 3 percent of respondents agreed with that and in
 4 2007, 65 percent of the respondents agreed
 5 with that.

6 And my question is: Hypothetically
 7 assume that that's true, that those numbers
 8 are accurate, accurate and represent the
 9 percentage of respondents who responded that
 10 way. Is that something that would concern the
 11 NBA?

12 A. Well, again, I would feel more
 13 comfortable answering the question in the
 14 context of the more general statement. So if
 15 the issue is does it concern the NBA that a
 16 fan who is playing an NBA fantasy game would
 17 say that he has -- he or she has rooted for my
 18 fantasy sport player playing against my
 19 favorite professional team, that would not
 20 necessarily concern me because it seems to me
 21 that it's possible to do that while also
 22 rooting for your team to win because in
 23 fantasy, it's only one player.

24 And so, for example, if your
 25 fantasy team is comprised of a number of

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 attendance or ticket sales?

3 A. Not that I'm aware of.

4 Q. Does the NBA have any empirical
 5 data on the impact of fantasy sports on
 6 television ratings?

7 A. Not that I'm aware of.

8 Q. Does the NBA have any empirical
 9 data on the impact of fantasy sports on
 10 broadcast revenue?

11 A. No.

12 Q. And does the NBA have any empirical
 13 data on the impact of fantasy sports on total
 14 team revenue?

15 A. No.

16 Q. Does the NBA sponsor fantasy
 17 basketball?

18 A. Yeah. We have a -- we have a game
 19 that we make available to fans through NBA.com
 20 that is in conjunction with Yahoo Sports. So
 21 the NBA's game that we have is, as they say,
 22 powered by Yahoo.

23 Q. Now, does the NBA have any concern
 24 about NBA players participating in fantasy
 25 sports?

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 A. No.
 3 Q. And does that include NBA players
 4 participating in fantasy basketball?
 5 A. That's not something that is
 6 currently prohibited by our rules.
 7 Q. Does the NBA have any concern about
 8 NBA players participating in fantasy
 9 basketball if there is an entry fee or
 10 monetary prize for winning the fantasy league?
 11 A. Again, it's -- fantasy is a -- it's
 12 a legal activity and something that our
 13 players are not prohibited currently from
 14 participating in.
 15 Q. Is the NBA concerned that
 16 participation in fantasy sports could be a
 17 steppingstone to legal sports betting?
 18 A. No, not presently.
 19 Q. Is the NBA concerned that
 20 participation in fantasy sports can be a
 21 steppingstone to illegal sports betting?
 22 A. Same answer.
 23 Q. And why is the NBA not concerned
 24 with those things?
 25 MR. MISHKIN: Object to the form of

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 fantasy offering in conjunction with Yahoo
 3 Sports that you were referring to earlier; is
 4 that correct?
 5 A. It is.
 6 Q. Okay. Do you know when the NBA
 7 first began partnering with Yahoo Fantasy
 8 Basketball?
 9 A. I don't. I think it's relatively
 10 recent. I think it's maybe the last couple
 11 years, I believe.
 12 Q. Does the NBA partner with any other
 13 fantasy sports outlet?
 14 A. No, we don't.
 15 Q. What revenue or licensing fees does
 16 the NBA earn from its partnership with Yahoo?
 17 A. I believe the -- I believe the
 18 agreement is -- there's a small rights fee in
 19 the nature of a couple of hundred thousand
 20 dollars, I think, in connection with this
 21 game; and then there's an advertising split
 22 depending on the ads that are sold against the
 23 game.
 24 Q. And does the NBA provide any
 25 information to Yahoo for this website?

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 the question of why you're not. But you
 3 can answer.
 4 A. I just -- we just understand
 5 fantasy to be different. Fantasy is a legal
 6 activity, it grew up in a -- you know, as a
 7 social way of connecting fans who were
 8 interested in a deeper connection to sports.
 9 It's something that's relatively small. It's
 10 not a big part of what we do.
 11 We have a game available but it's
 12 not a particularly large driver or anything.
 13 It's just a -- it's an extra offering that we
 14 make to people who live, breathe and eat NBA
 15 basketball. And, you know, we don't see it
 16 leading anywhere else.
 17 Q. Okay. I'm going to show you what
 18 we're going to mark as NBA Exhibit 10.
 19 (Exhibit 10: NBA.com/Yahoo Sports
 20 Fantasy Basketball (#PLAINTIFFS'
 21 00004037-4042), was marked for
 22 identification.)
 23 BY MR. HOFFMAN (continuing):
 24 Q. Now, this appears to be a printout
 25 of a website and it appears to be the NBA.com

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 A. You know, I'm not 100 percent sure,
 3 but I would think that we would. I mean,
 4 certainly, I mean, on here as an example, they
 5 wouldn't have the right to use these photos or
 6 the footage without us providing the
 7 authorization so...
 8 Q. Do you know if there are any NBA
 9 employees who provide fantasy analysis for the
 10 website?
 11 A. I'm not. I don't know. But I
 12 mean, I see on here just as an example,
 13 there's a link to -- on the second page to the
 14 Czar's fantasy advice, the Czar being Mike
 15 Fratello, who is a color commentator on NBA
 16 games. He's not an NBA employee but I don't
 17 know.
 18 Q. The Czar of the telestrator, right?
 19 A. Yes.
 20 Q. Okay. If you could turn to page 3
 21 of that document, it's Bates number 4039. And
 22 you'll see there appear to be -- under What's
 23 New In Fantasy Basketball 2012, there's an
 24 icon there for the pro leagues. Do you see
 25 that?

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 A. Yes.
 3 Q. In this particular league,
 4 participants can compete to win cash prizes in
 5 a public head-to-head or rotisserie league and
 6 there is an entry fee of \$20 or \$100. Do you
 7 see that?
 8 A. I do.
 9 Q. Okay. Does the emphasis on money
 10 here concern the NBA?
 11 A. Well, I would say two things about
 12 this: First of all, that particular pro
 13 league reference, that's not our game, that's
 14 Yahoo's game.
 15 Q. Okay.
 16 A. And that's just to make the record
 17 clear in that regard.
 18 With respect to your question, no,
 19 it's -- again, within the context of what
 20 fantasy sports has become, you know, a low-
 21 stakes entry fee of this nature or a prize of
 22 some nature has become -- appears in some
 23 fantasy leagues that I'm aware of, as I
 24 testified earlier. And I don't view that and
 25 the NBA doesn't view that as being a problem.

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 have a concern that this is going to overwhelm
 3 their loyalty.
 4 Q. Now, are you aware that sometimes
 5 NBA teams have promotions where food items or
 6 other gifts are given away if a team scores a
 7 certain amount of points at a game?
 8 A. Yes.
 9 Q. For example, I think in Los Angeles
 10 at Lakers games, if the Lakers score a hundred
 11 points, you get two Jack-in-the-Box tacos.
 12 A. Yes.
 13 MR. MISHKIN: If you want to define
 14 that as prize. I object.
 15 MR. HOFFMAN: Fair point,
 16 Mr. Mishkin.
 17 BY MR. HOFFMAN (continuing):
 18 Q. Any concern that fans will be
 19 disappointed if their home team wins but they
 20 don't win -- if they don't reach a certain
 21 number of points?
 22 A. No. I mean, is it the case that
 23 some fans might be disappointed in that
 24 regard? I wouldn't say that it's -- it never
 25 happens, but I think it's at such a de minimus

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 Q. And any concern on the part of the
 3 NBA that a fantasy basketball contest would
 4 damage the bonds of loyalty and devotion
 5 between fans and teams?
 6 A. Well, again, no. But I mean, in
 7 order to explain that, just because this is
 8 radically different than sports gambling, I
 9 mean, no one here is -- you know, the entry
 10 fee is not someone's rent and as far as I'm
 11 aware, people don't become addicted to playing
 12 fantasy basketball, at least as far as I'm
 13 aware.
 14 And so this is -- fantasy, again,
 15 it's an additive product, it's a small
 16 audience of people who are particularly avid
 17 fans that want to do this or their avidity is
 18 already demonstrated. And it doesn't concern
 19 us that their loyalty to the NBA and their
 20 passion for the NBA is going to be directed
 21 entirely toward their fantasy experience.
 22 They got into this in the first
 23 place because they were crazy NBA fans and
 24 presumably and likely with some particular
 25 team that they are crazy about. And we don't

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 level, it's not going to stop them in the
 3 Lakers example from being a Lakers fan.
 4 Q. I'm going to shift gears now and
 5 talk about the NBA's policies and practices
 6 regarding sports gambling. And I first want
 7 to ask a few questions about Las Vegas. We
 8 touched on this earlier, but I just want to
 9 confirm a few things.
 10 Does the NBA have any issue with
 11 legal gambling in Las Vegas?
 12 MR. MISHKIN: Well, object to the
 13 form of the question. You can answer it.
 14 A. Well, I think the term "an issue"
 15 can be interpreted a lot of different ways.
 16 We would prefer that there not be legalized
 17 gambling on our games, and if it had been the
 18 case that in 1992 when the federal law was
 19 passed there was no such history of legalized
 20 gambling anywhere and the Congress said there
 21 would be a complete ban, we would have been
 22 pleased with that result.
 23 But that was not the case and as a
 24 result of the history in Las Vegas, it was
 25 grandfathered. And therefore we -- we live in

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 2 that world where there is legal gambling in
 3 Las Vegas and Nevada and we deal with that and
 4 there's illegal gambling everywhere else.
 5 Q. I'm going to show you what we're
 6 going to mark as NBA Exhibit 11.
 7 (Exhibit 11: Constitution and
 8 Bylaws NBA 11/1/08 (#PLAINTIFFS'
 9 0001909-914), was marked for
 10 identification.)
 11 BY MR. HOFFMAN (continuing):
 12 Q. And, Mr. Buchanan, I assume you've
 13 probably seen this document before.
 14 A. Indeed I have.
 15 Q. And what is this document?
 16 A. This is the Constitution and Bylaws
 17 of the National Basketball Association dated
 18 November 1st, 2008.
 19 Q. If I can have you turn to Bates
 20 number 1910.
 21 A. Yes.
 22 Q. So it's the first page.
 23 MR. MISHKIN: Page 32.
 24 Q. Yes. And that article looks like
 25 Article 35 entitled Misconduct. And I want to

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 2 indirectly wagers money or anything of
 3 value on the outcome of any game played
 4 by a team in the League operated by the
 5 Association shall, on being charged with
 6 such wagering, be given an opportunity to
 7 answer such charges after due notice and
 8 the decision of the Commissioner shall be
 9 final, binding and conclusive and
 10 unappealable. The penalty for such
 11 offense shall be within the absolute and
 12 sole discretion of the Commissioner and
 13 may include a fine, suspension, expulsion
 14 and/or perpetual disqualification from
 15 further association with the Association
 16 or any of its members."
 17 How many times has this Subsection
 18 (f) of Article 35 been invoked?
 19 A. Again, since I've been with the
 20 NBA, we have not issued any penalties under
 21 this Section (f).
 22 Q. And during your time at the NBA,
 23 have there been any suspected violations of
 24 Article 35 (f)?
 25 A. Well, I don't recall any specific

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 2 point you to Subsection (b) which states that:
 3 "The Commissioner shall direct the
 4 dismissal and perpetual disqualification
 5 from any further association with the
 6 Association or any of its members of any
 7 player found by the Commissioner after a
 8 hearing to have been guilty of offering,
 9 agreeing, conspiring, aiding or
 10 attempting to cause any game of
 11 basketball to result otherwise than on
 12 its merits."
 13 Mr. Buchanan, do you know how many
 14 times this rule has been invoked?
 15 A. I don't. I will tell you that in
 16 my time at the NBA since 1993, I don't believe
 17 we've ever invoked it.
 18 Q. During your time at the NBA, have
 19 there been any suspected violations of Article
 20 35 (b)?
 21 A. No.
 22 Q. If you could turn the page to 1911,
 23 and I'm going to direct your attention to
 24 Subsection (f) which states:
 25 "Any player who directly or

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 2 investigations focused on gambling on NBA
 3 games. There have been investigations of
 4 players that related to gambling generally in
 5 which questions may have been asked in this
 6 space, but I wouldn't say that we had any
 7 investigations that were targeted toward this
 8 conduct.
 9 Q. Okay. Do you know how the NBA
 10 would detect violations of this rule?
 11 A. Well, I can imagine. I mean, you
 12 know, it's -- as with anything, information
 13 can come from anywhere. So we would be -- we
 14 would be possessed of information or an
 15 assertion or an allegation that a player was
 16 betting on NBA games and that could come to us
 17 from, you know, almost anyone for almost any
 18 reason.
 19 Q. Can you please turn the page to
 20 1912, and this is now Article 35 (a),
 21 Misconduct of Persons Other Than Players. And
 22 I want to direct your attention to Subsection
 23 (b) which states:
 24 "The Commissioner shall direct the
 25 dismissal and perpetual disqualification

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 2 from any further association with the
 3 Association or any of its members of any
 4 person found by the Commissioner after a
 5 hearing to have been guilty of offering,
 6 agreeing, conspiring, aiding or
 7 attempting to cause any game of
 8 basketball to result otherwise than on
 9 its merits."

10 Do you know how many times this rule
 11 has been invoked?

12 A. Again, since I've been with the
 13 NBA, 1993, I don't recall that we've had any
 14 circumstances where we have found somebody to
 15 have violated this rule.

16 Q. And during your time at the NBA,
 17 are you aware of any suspected violations of
 18 Article 35 (a), Subsection (b)?

19 A. I'm not.

20 Q. Okay. If you could turn the page
 21 to 1913, Subsection (g). This one's a little
 22 bit longer, so why don't you go ahead and take
 23 a minute to read that.

24 A. Right.

25 (Examining document.)

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 2 referenced, any other incidents that would
 3 fall under Article 35 (a) Subsection (g), as
 4 it's currently drafted?

5 A. No.

6 Q. And if you know, prior to the
 7 Donaghy incident, how was this particular rule
 8 or Article 35 (a) Subsection (g) different?

9 A. I couldn't give you all the
 10 specifics. I would say in general that my
 11 recollection is that we had either it all
 12 rolled up under a rule that prohibited
 13 prejudicial or detrimental conduct without
 14 being more specific about gambling-related
 15 conduct, or it may have been that we simply
 16 had a sort of no-gambling rule on NBA games
 17 without a lot of the detail and specifics that
 18 this rule now lays out.

19 And so generally speaking, I think
 20 it would have been our view that the substance
 21 of the rules were materially the same, but
 22 they weren't specifically spelled out that
 23 way. We think this has a better deterrent
 24 effect and a better notice effect for people
 25 to understand what it is we're focused on.

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2 Okay.

3 Q. Do you know how many times Article
 4 35 (a) Subsection (g) has been invoked?

5 A. Well, one thing I should say is
 6 that the (g) as written here is different and
 7 more comprehensive in the way it's written
 8 than was the case prior to the Donaghy
 9 situation. One of the recommendations from
 10 the Pedowitz report was to be somewhat more
 11 explicit in the rules that we have about --
 12 that prohibit tipping, gambling on our games,
 13 et cetera. And so this iteration of the rule
 14 is relatively new.

15 But in answer to your question,
 16 this rule would be the one that would be
 17 relevant to the three instances I testified to
 18 earlier where we've conducted investigations
 19 of team personnel who were involved with
 20 gambling on NBA games.

21 MR. MISHKIN: Off the record.

22 (A discussion was held off the
 23 record.)

24 BY MR. HOFFMAN (continuing):

25 Q. Other than the three incidents you

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 Q. Are the rules we just discussed out
 3 of the Constitution and Bylaws, were there any
 4 previous version of these rules that also
 5 prohibited gambling on non-NBA games?

6 A. No. Well, not during my time. I
 7 mean, we've always -- the focus has been
 8 gambling on our games, that's what we are
 9 concerned about.

10 Q. I'm going to show you what we're
 11 going to mark as NBA Exhibit 12.

12 A. I'm sorry, can I go back and maybe
 13 you're going to give it to me but I do --
 14 there are -- we do have some rules that are
 15 broader, for example, with respect to
 16 referees. And you're maybe about to show me
 17 something like that so --

18 Q. I am. And it's going to be after
 19 this document. I think you're referring to,
 20 for example, the work rules for NBA officials?

21 A. Correct. And so there are some --
 22 some of our employees we are somewhat broader
 23 than just gambling on NBA games.

24 Q. Okay. We'll talk about that next.
 25 (Exhibit 12: Antigambling Rules)

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 (#PLAINTIFFS' 00001838-1839), was marked
 3 for identification.)
 4 BY MR. HOFFMAN (continuing):
 5 Q. And, Mr. Buchanan, are you familiar
 6 with this document or have you seen this
 7 document before?
 8 A. I am.
 9 Q. And what is this document?
 10 A. This is a brochure--black and white
 11 does not do it justice--that sets forth our
 12 antigambling rules, no betting, no fixing, no
 13 tipping; and tries to do so in a concise and
 14 colorful way, although you would not be able
 15 to tell that from this. And it is distributed
 16 to as many people within the League as we can
 17 possibly distribute it to.
 18 Q. Do you know when the NBA started
 19 distributing that pamphlet?
 20 A. Well, it was post the Donaghy
 21 situation, so I would say 2008 or 2009, in
 22 that time frame.
 23 Q. And so on the first page which is
 24 Plaintiffs' 1838, under Personal Conduct it
 25 says: "All forms of illegal gambling are

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 2 But with respect to legal gambling
 3 on other sports, it's not really our concern.
 4 If it's legal, then you're permitted to do it.
 5 Q. Other than this pamphlet, are there
 6 other ways that the NBA educates its players
 7 about the NBA's antigambling policies?
 8 A. Yes. We have at various times
 9 online training about our gambling rules where
 10 you have to take a -- you have to read some
 11 material and take a quiz. We have in-person
 12 training when we send instructors out to meet
 13 with teams to describe the antigambling rules.
 14 Every year there are team awareness
 15 meetings which are meetings held with each
 16 team at periodic points throughout the year
 17 and different topics are addressed in those
 18 meetings; gambling is one of the topics that's
 19 addressed in that context.
 20 And then we have a rookie
 21 transition program where players coming into
 22 the League have to come and participate for
 23 four days, I believe, and be trained on a
 24 whole variety of issues that would affect
 25 their NBA careers, including our antigambling

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 2 prohibited." And it says:
 3 "This includes, for example, online
 4 gambling which is generally considered
 5 illegal in the United States even if the
 6 website is located outside the United
 7 States. You may engage in casino
 8 gambling and betting on non-NBA sports in
 9 places where it is legal. For example,
 10 playing Blackjack while at a casino in
 11 Las Vegas would not violate NBA rules.
 12 Betting on horse races where such betting
 13 is legal is also permitted."

14 Why does the NBA allow players to
 15 bet on non-NBA sports games?

16 A. Because of the -- primarily because
 17 of what I've testified to previously, our
 18 focus is on betting on NBA games and the
 19 effect of betting on NBA games on our
 20 relationship with our fans, our -- and our
 21 product with respect to players. It's
 22 inappropriate for them to do that because it
 23 would suggest conflict of interest and
 24 therefore lead to fans believing that players
 25 have divided loyalties.

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 2 rules.
 3 There are posters that appear in
 4 locker rooms, there are any number of ways.
 5 Whatever other things we can think of to make
 6 sure that it's top of mind for them, we do.
 7 Q. And if you look to the left of the
 8 Personal Conduct box, it says Report Any
 9 Suspicious Activity. And under that it
 10 states:
 11 "If someone asks you to bet on NBA
 12 games, fix the outcome of a game or
 13 disclose confidential information that
 14 could affect the outcome of the game,
 15 you must immediately report this contact
 16 to Rick Buchanan." I won't list your
 17 phone number or your e-mail address.
 18 Since the NBA first distributed this
 19 pamphlet, how many reports of suspicious
 20 activities have you received?
 21 A. Well, we certainly received the
 22 reports that led to the several investigations
 23 that I testified to previously, and I recall
 24 that at least one of those came directly to my
 25 attention. It may be that all three of them

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 2 did; but in some form or fashion, they were
 3 all reported to our office. And I think
 4 that's it. I believe it's the three.

5 Q. Okay. I'm going to show you now
 6 what's marked as NBA Exhibit 13.

7 (Exhibit 13: 2012-2013 Work Rules
 8 for NBA Officials (#PLAINTIFFS'
 9 00003504-3506), was marked for
 10 identification.)

11 BY MR. HOFFMAN (continuing):

12 Q. And I'd like you to turn to page 2
 13 -- well, first let me ask: Are you familiar
 14 with this document?

15 A. I am.

16 Q. And did you review this document in
 17 preparation for today's deposition?

18 A. I don't remember if I -- I don't
 19 think I did, but I certainly am familiar with
 20 it.

21 Q. Okay. And what is this document?

22 A. This is a portion of the work rules
 23 that apply to NBA referees that are in effect
 24 for the 2012-2013 season.

25 Q. If I could have you turn to page 2,

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 an off-track betting establishment during
 3 the season. If you bet at a casino, a
 4 racetrack or an off-track betting
 5 establishment during the off-season, you
 6 must report this conduct to Jim Cawley"--
 7 I assume that's senior vice president but
 8 --"SVP Security, in advance or within 24
 9 hours of having placed a bet."

10 Again, why are referees prohibited
 11 from betting at casinos during the season but
 12 players are not?

13 A. It's the same issue. It's not --
 14 we just don't want fans associating referees
 15 with gambling and having images of them at
 16 casinos where a sportsbook may be, you know,
 17 40 feet down the hall. It's just not -- we
 18 just don't think it's consistent with the
 19 image of neutrality that we want the referees
 20 to have.

21 Q. This paragraph references Jim
 22 Cawley. What are Jim Cawley's
 23 responsibilities?

24 A. Jim Cawley is in charge of our
 25 security department.

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2 Plaintiffs' 3505.

3 A. Yes.

4 Q. And focus you on Roman Numeral II,
 5 Integrity of the Game, Section (c), which is:
 6 "You must not bet directly or
 7 indirectly on any professional or
 8 collegiate sport other than de minimus
 9 bets with friends or family members."

10 Why are referees prohibited from

11 betting on sports but players are not?

12 A. Well, it's -- it's because referees
 13 have a particular position in the game as
 14 being neutral participants who regulate the
 15 play on the court, et cetera. And it just
 16 strikes us as leading to perceptions that they
 17 may not be neutral if they were seen betting
 18 on professional or college sports other than
 19 in any context in Las Vegas. It's just not an
 20 image that we think is consistent with the one
 21 that we want fans to have of the officials.

22 Q. And then Section II (e) states

23 that:
 24 "You must not bet directly or
 25 indirectly at a casino or a racetrack or

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 2 Q. And do you know how many reports
 3 have been sent by NBA referees to Mr. Cawley
 4 from Subsection II (e)?

5 A. I don't. I'm reasonably confident
 6 there have been some, but I don't know how
 7 many.

8 Q. Okay.

9 A. And this contemplated a
 10 circumstance where, for example, I remember
 11 one of these situations which is a referee in
 12 the off-season is taking a cruise and, you
 13 know, he's off on a cruise with his wife in
 14 the off-season or something like that, and I
 15 think we've had a report: Okay, I was in the
 16 casino on the cruise ship or something.
 17 That's how that would come up.

18 Q. Okay. During your time in the NBA,
 19 have there been any violations of these rules?

20 A. Well, interesting question, I
 21 guess. I mean, in other words, these rules
 22 technically are rules for '12-'13 so there
 23 hasn't been any violations this season. Going
 24 backwards, it was always the case that
 25 referees were not permitted to gamble on NBA

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 2 games and Tim Donaghy did, so that's an
 3 example of a situation where the rules were
 4 violated.

5 Other than the Donaghy case, I'm
 6 not aware of any circumstances like that.

7 Q. Well, are you aware in I think
 8 October 2007, it became public that more than
 9 half of the League's 56 referees had violated
 10 NBA policies regarding casino gambling?

11 A. Well, the Pedowitz report talks
 12 about the fact that our prohibitions at that
 13 time were broader than these (indicating).
 14 And the result was that we had certain
 15 referees who had been -- who had been at
 16 casinos and had participated in casino gaming.

17 With respect to whether it was half
 18 or anything, I don't recall the numbers. But
 19 it certainly was the case that we -- as
 20 written, the rules were not enforced to
 21 prohibit referees from playing Blackjack or
 22 craps, for example. And Mr. Pedowitz learned
 23 of that and one of his recommendations was to
 24 revise the rules to focus more explicitly on
 25 the issues that -- what we wanted to occur and

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 2 Operations Manual, and our Operations Manual
 3 is a compendium of rules that govern all
 4 different facets of team and League operations
 5 across a very wide spectrum. And they are
 6 consolidated and summarized into a single
 7 book, which is the Operations Manual.

8 Q. If I could direct your attention to
 9 page 467, Plaintiffs' 3501 of NBA Exhibit 14.

10 A. Um-hmm.

11 Q. It looks like it's Section 7 which
 12 is entitled Team Tie-Ins with Gaming
 13 Establishments and Lotteries. So it appears
 14 here that the NBA rules allow teams to make
 15 advertising arrangements with legal gambling
 16 establishments as long as the establishment
 17 does not offer, and I quote, "offer any form
 18 of online betting on any sporting event or
 19 contest." Do you see that in 7(a)(1)?

20 A. Yes.

21 Q. I just want to be clear: What does
 22 the expression "any form of online betting"
 23 mean?

24 A. Well, I think this is a little
 25 inartful. I think what it's supposed to mean

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 2 what we didn't want to occur.

3 Q. And for those officials, again,
 4 whatever the number was, that had been
 5 involved in casino gambling back in October
 6 2007, do you know if any of those referees
 7 were punished by the NBA?

8 A. No. And I believe it was -- again,
 9 it was in the Pedowitz report. My
 10 recollection may not be accurate, but that the
 11 decision was not to do that and that was in
 12 part in the context of a clarification of what
 13 those rules really should have been
 14 prohibiting.

15 Q. Let me show you what we're going to
 16 mark as NBA Exhibit 14.

17 (Exhibit 14: Operations Manual
 18 2010-2011 (#PLAINTIFFS' 00003496-3503),
 19 was marked for identification.)

20 BY MR. HOFFMAN (continuing):

21 Q. Mr. Buchanan, have you seen this
 22 document before?

23 A. Yes.

24 Q. And what is this document?

25 A. This is material from our

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 2 is that you can accept an advertisement from a
 3 gaming establishment that, even if it engages
 4 in legal sports betting and it's written in
 5 the -- sort of in the reverse and there's a --
 6 I think there's part of it that's actually
 7 missing. But online betting is illegal so if
 8 you were -- if you are -- if you're engaging
 9 in an advertising relationship with an
 10 establishment that's offering online sports
 11 betting, then that's illegal and that's the
 12 reason you can't.

13 And then the other piece that's
 14 missing is that, of course, you couldn't
 15 accept advertising from a gaming establishment
 16 that was offering a physical sportsbook
 17 outside of Nevada, which would also be
 18 illegal.

19 Q. Sure. Okay. I think you've
 20 cleared it up. I was unclear about whether
 21 online actually meant Internet gambling versus
 22 some reference to the line. I just wanted to
 23 clear that up.

24 A. That's correct, Internet, yes.

25 Q. Do you know if there have been any

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 2 violations of this portion of the NBA
 3 Operations Manual?
 4 A. Well, violations. So I -- I don't
 5 know, but I -- the way this works is that
 6 advertising or promotions of this nature are
 7 subject to review by the league office and
 8 they go through sort of a business review
 9 process whereby if they don't comply with the
 10 rules, they will need to be modified or dealt
 11 with.
 12 And so there may well have been
 13 circumstances where advertisements were
 14 submitted that didn't comply and then they
 15 were told they don't comply and you need to
 16 fix them. I'm sure there were.
 17 Q. Does the NBA league office itself
 18 have any partnerships with casinos?
 19 A. I'm not aware that we do.
 20 Q. And do you know how many NBA teams
 21 have advertising arrangements with gaming
 22 establishments?
 23 A. I don't know the precise number. I
 24 know there certainly are some that do.
 25 Q. For those NBA teams that do have

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 2 and gaming establishments?
 3 A. I have no information on that one
 4 way or the other.
 5 Q. Now, the NBA also has a women's pro
 6 league called the WNBA; is that correct?
 7 A. That is correct.
 8 Q. And there's a WNBA team that plays
 9 inside a casino; is that correct?
 10 MR. MISHKIN: Plays inside a
 11 casino. Well, that's the question.
 12 A. Well, first of all, you probably
 13 just heard my counsel object on the grounds
 14 that I'm not here representing the WNBA, which
 15 the WNBA is not a Plaintiff in this case and
 16 so I'm not 100 percent sure why I would be
 17 testifying about that.
 18 But subject to that objection which
 19 he just made, inside of a casino. The team is
 20 owned by the Mohican Sun. The Mohican Sun has
 21 a casino and it also has an arena in which it
 22 plays games. I think those are adjacent to
 23 each other or connected to each other or part
 24 of the same gigantic structure, that is true.
 25 Q. Did the NBA have any concern about

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 2 advertising arrangements with gaming
 3 establishments, are they required to report
 4 any profits related to those advertising
 5 arrangements to the NBA league office?
 6 A. I just want to make sure I
 7 understand your question. You're asking
 8 whether profits relating to the advertising.
 9 Q. Correct.
 10 A. Sure, in the sense that the teams
 11 report all of their local revenue to the
 12 league office. In other words, we have -- in
 13 order to consolidate the financial statements
 14 for all the League entities, we have to see
 15 that.
 16 MR. MISHKIN: The question was
 17 about profits; the answer was about
 18 revenue. I don't know if that matters to
 19 you but...
 20 MR. HOFFMAN: That's fine.
 21 A. We see revenue, we see expense,
 22 sure.
 23 Q. Has there been any reported
 24 decrease in fan loyalty based on the
 25 advertising relationships between NBA teams

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 naming a WNBA team after a casino? My
 3 understanding is the team's name is the
 4 Connecticut Sun, I believe.
 5 A. Connecticut Sun, that's true.
 6 Q. Was there any concern naming the
 7 WNBA team after a casino?
 8 A. I think that question would be
 9 better directed to WNBA officials than me.
 10 Q. Okay. If you'd now look at Section
 11 7(a)(2), Promotions.
 12 A. Yes.
 13 Q. Now, it appears that NBA teams may
 14 enter into agreements with gaming
 15 establishments for promotional events or
 16 giveaways as long as the promotion does not
 17 relate to gambling activities. Is that
 18 correct?
 19 A. Right. It doesn't relate to any
 20 betting or other gambling activities or
 21 facilities.
 22 Q. So does this rule allow for
 23 promotional events with gaming establishments
 24 that conduct sports betting?
 25 A. Well, again, the -- what the rule

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 means is that, for example, there could be a
 3 promotional event between a team and a Nevada
 4 casino property that would say if you win the
 5 promotion, you get a free hotel stay at the
 6 casino property's hotel. And if that casino
 7 property has a sportsbook, that would not be
 8 prohibited.

9 Q. If you'd turn the page to page 468,
 10 Plaintiffs' 3502.

11 A. Yes.

12 Q. Section (b) entitled Lotteries.

13 And here it states that:

14 "Teams may accept advertising and
 15 promotional arrangements with state
 16 lotteries or provincial lotteries in the
 17 case of Canada provided that such
 18 promotional arrangement does not refer to
 19 or promote lottery games based on sports
 20 betting unless otherwise approved by the
 21 League."

22 Have any exceptions allowing
 23 references to sports betting been approved by
 24 the League?

25 A. No.

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 A. I can't give you a precise number
 3 but there are some.

4 Q. And if you go down, there's three
 5 subsections 1, 2 and 3 and there is some
 6 additional abbreviations used there. Since I
 7 already messed up one, why don't I just make
 8 sure I understand what the other ones mean.

9 What does TMBO stand for?

10 A. TMBO is team marketing and business
 11 operations. That is a department of the NBA
 12 league office that functions as a --
 13 essentially a consulting firm for team
 14 business operations in order to help them
 15 maximize revenue.

16 Q. And what IS the TPP system?

17 A. That one I'm not going to be able
 18 to help you with other than to say that I
 19 believe it is the computer system through
 20 which promotions are submitted by teams for
 21 approval.

22 Q. And do you know, has the NBA
 23 rejected any lottery arrangements pursuant to
 24 this, under this rule?

25 A. I don't know. I don't know.

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN

2 Q. Do you know how many licenses to
 3 use team logos have been granted by the
 4 National Basketball Players Association?

5 A. No, I have no idea. Well, I'm
 6 sorry, let me back up.

7 Q. In conjunction with the lotteries,
 8 I should say.

9 A. Yeah, maybe you want to -- I'm not
 10 sure you asked the question the way you want
 11 to ask it. I think you said granted by the
 12 National Basketball Players Association.

13 MR. MISHKIN: The letters NBAP do
 14 not refer to the Players Association.

15 MR. HOFFMAN: It makes sense. I
 16 reversed the P and the A.

17 Q. What does NBAP stand for?

18 A. NBAP is NBA Properties which is --

19 Q. That makes more sense.

20 A. -- which is the marketing and
 21 licensing arm of the NBA. So it's our sister
 22 commercial company.

23 Q. So let me -- now that I've
 24 clarified that, how many licenses to use team
 25 logos have been granted by the NBAP?

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN

2 Q. I'm going to show you what we're
 3 going to mark as NBA Exhibit 15.

4 (Exhibit 15: Meeting minutes Board
 5 of Governors 10/24/07-10/25/07
 6 (#PLAINTIFFS' 00002271-2272), was marked
 7 for identification.)

8 BY MR. HOFFMAN (continuing):

9 Q. Have you seen this document before?

10 A. I have.

11 Q. And what is this document?

12 A. This is an excerpt from the minutes
 13 of the annual meeting of our Board of
 14 Governors that was held in 2007.

15 Q. And do these board minutes indicate
 16 that the Board of Governors voted unanimously
 17 to waive the NBA rule prohibiting owners from
 18 owning any interest in or controlling a gaming
 19 establishment that has a sportsbook including
 20 NBA games, and that rule was waived for David
 21 Bonderman, a minority owner of the Celtics?

22 MR. MISHKIN: Of course, the
 23 document says what it says. If you're
 24 asking the witness to confirm what it
 25 says, then I would object to the

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 question. But you can answer it.
 3 A. This reflects a waiver that was
 4 granted in respect of that rule for
 5 Mr. Bonderman, who was then a minority owner
 6 of the Celtics, and for Mr. Gary Loveman, who
 7 was a putative owner of interest, a minority
 8 interest, in the Celtics.

9 Q. Mr. Buchanan, were you present at
 10 this meeting?

11 A. I was.

12 Q. And did you prepare any reports or
 13 recommendations regarding this issue?

14 A. I did not.

15 Q. Do you know if there was any
 16 opposition to this waiver?

17 A. Well, I think it is fair -- given
 18 that the ultimate vote was a unanimous vote in
 19 favor of the waiver, I think that is the
 20 fairest reflection of the board's view of it
 21 at the end. There was certainly discussion of
 22 this issue in connection with its
 23 presentation, and not all of the comments that
 24 were made were in favor. But ultimately the
 25 vote was as you see here.

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 BY MR. HOFFMAN (continuing):
 3 Q. Have you seen this document before?
 4 A. I have.
 5 Q. And what is this document?

6 A. It's more board minutes, this time
 7 from our annual meeting in October of 2008.

8 Q. And can you briefly describe for
 9 the record what waiver was voted on here?

10 A. In this case, the request for a
 11 waiver was from the Sacramento Kings. The
 12 Kings owned -- at that time owned a
 13 controlling interest in the Palms casino in
 14 Las Vegas. The Palms has a sportsbook and
 15 prior to this time, that sportsbook was not
 16 permitted to include bets on NBA games.

17 The Kings requested that a waiver
 18 of that rule be granted so that NBA games
 19 could be added to the sportsbook, recognizing
 20 that we would require, as we did, that Kings
 21 games could not be included in the offering.

22 Q. And were you present for this
 23 meeting?

24 A. Yes.

25 Q. Did you prepare any reports or

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 Q. Why was the waiver granted?
 3 A. Well, I can't -- you know, there's
 4 30 owners who vote on this and they all have
 5 their own reasons to do that. I would -- I
 6 wish I knew at all times the reasons why our
 7 owners voted in favor or against certain
 8 things, but I don't.

9 I would say, though, that as stated
 10 by proponents of this, that the view was that
 11 in the connection with certain protections
 12 that we required to be put in place, that
 13 there was not a concern that the small
 14 ownership in the team and the ownership in the
 15 sportsbook, especially under circumstances
 16 where the games of -- the Celtics games would
 17 be removed from that sportsbook, would cause a
 18 conflict of interest that would -- that would
 19 ultimately be a problem for the League.

20 Q. I'm going to show you what we're
 21 going to mark as NBA Exhibit 16.

22 (Exhibit 16: Meeting minutes Board
 23 of Governors 10/22/07-10/23/07
 24 (#PLAINTIFFS' 00002269-2270), was marked
 25 for identification.)

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
 2 recommendations regarding this issue?
 3 A. I did not.
 4 Q. Why was this waiver granted?
 5 A. It's consistent with the waiver
 6 from 2007. Again, the board's view was that
 7 under circumstances in which the games of the
 8 Sacramento Kings were not available on the
 9 sportsbook and under other circumstances that
 10 were designed to ensure that the owners of the
 11 Sacramento Kings team didn't have access to
 12 confidential information about the other NBA
 13 teams or were involved directly or indirectly
 14 in the setting of betting lines, under all of
 15 those conditions, we felt that the -- the
 16 board felt that there was not a sufficient
 17 conflict of interest such that we would
 18 prohibit these games from being included in
 19 the book.

20 Q. Do you know if any waiver regarding
 21 ownership in casinos has not been approved by
 22 the NBA?

23 A. After this time, I believe the
 24 answer is no. In other words, prior -- the
 25 2007 request in Exhibit 15 was the first

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
2 waiver that I can recall being granted, and I
3 believe that previously there may have been
4 requests made along these lines that were not
5 -- that were not allowed.

6 Whether they rose -- whether they
7 came up to the -- to an actual board vote, I'm
8 not aware. Issues percolate up through the
9 League and oftentimes are stopped before they
10 get to the full board for a vote.

11 Q. But other than these two, do you
12 recall whether any waiver issues come to a
13 board vote?

14 A. These two, I'm not -- as I sit
15 here, I'm not recalling any.

16 Q. Sorry, and when I say "waiver
17 issue," I mean a waiver regarding a
18 relationship with a casino.

19 A. Correct. I'm not remembering any
20 others.

21 MR. HOFFMAN: I'm going to show you
22 what we're going to mark as NBA
23 Exhibit 17.

24 (Exhibit 17: Declaration of David
25 Stern 8/6/12, was marked for

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
2 part of a number of respondents to those
3 surveys about gambling, about legalizing
4 gambling on sports.

5 And just from a strict business
6 perspective, when you have roughly 40 percent
7 of respondents saying they oppose gambling on
8 sports, legalizing gambling on sports, from a
9 business perspective, that's something that
10 you certainly have to take account of and be
11 concerned that if it were to occur, that it
12 would harm you because those people are
13 opposed to it.

14 That's the only other thing that I
15 thought of as we went along here today. But
16 otherwise I think I have testified to
17 everything else.

18 MR. HOFFMAN: I have no further
19 questions.

20 MR. MISHKIN: I have none. Thank
21 you.

22 (Time noted: 2:06 p.m.)

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1 HIGHLY CONFIDENTIAL - R. BUCHANAN
2 identification.)

3 BY MR. HOFFMAN (continuing):

4 Q. Did you help prepare this
5 declaration for Commissioner Stern?

6 MR. MISHKIN: You can answer yes or
7 no.

8 A. Yes.

9 Q. Have you discussed this declaration
10 with Commissioner Stern?

11 MR. MISHKIN: I object on the
12 grounds that I don't see how that could
13 avoid disclosure of attorney-client
14 discussions, and I would instruct the
15 witness not to answer.

16 Q. Is there any other harm that the
17 NBA's alleging in this case that we have not
18 already discussed today?

19 A. You know, I don't -- I think I've
20 discussed everything that's -- that's
21 concerning us here. The only thing that came
22 to my mind while we were involved in the
23 question and answer was that there is
24 obviously some data in the surveys that you
25 took me through that reflects a concern on the

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1
2 STATE OF NEW YORK)
3) ss:
4 COUNTY OF NEW YORK)
5
6
7 I, RICHARD W. BUCHANAN, the
8 witness herein, having read the foregoing
9 testimony of the pages of this deposition, do
10 hereby certify it to be a true and correct
11 transcript, subject to the corrections, if
12 any, shown on the attached page.

13
14
15
16 RICHARD W. BUCHANAN
17

18 Subscribed and sworn to before me
19 this _____ day of _____, 2012.

20
21
22 NOTARY PUBLIC
23
24
25

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6	NAME OF CASE: NCAA VS. CHRISTIE		
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8	NAME OF DEFONENT: RICHARD W. BUCHANAN		
9	PAGE	LINE(S)	CHANGE
10			REASON
11	_____	_____	_____
12	_____	_____	_____
13	_____	_____	_____
14	_____	_____	_____
15	_____	_____	_____
16	_____	_____	_____
17	_____	_____	_____
18	_____	_____	_____
19)	_____	_____
20	_____	_____	_____
21	RICHARD W. BUCHANAN		
22	SUBSCRIBED AND SWORN TO BEFORE ME		
23	THIS <u> </u> DAY OF <u> </u> , 20 <u> </u> .		
24			
25	(NOTARY PUBLIC)	MY COMMISSION EXPIRES:	

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1	C E R T I F I C A T I O N	
2		
3		
4	I, Sherri Flagg, a Registered	
5	Professional Reporter, Certified LiveNote	
6	Reporter, and a Notary Public, do hereby certify	
7	that the foregoing witness, RICHARD W. BUCHANAN,	
8	was duly sworn on the date indicated and that the	
9	foregoing is a true and accurate transcription of	
10	my stenographic notes.	
11	I further certify that I am not	
12	employed by nor related to any party to this	
13	action.	
14		
15		
16	_____ Sherri Flagg, RPR, CLR	
17		
18		
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